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CALIFORNIA'S "LONG-STANDING, SERIOUS NONCOMPLIANCE"
IN THE DELIVERY OF SPECIAL EDUCATION
AND RELATED SERVICES

A Project
Presented to the
Faculty of
California State University,
San Bernardino

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
in
Education:
Special Education

by
Margaret Ann Kaspar

December 2002

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ABSTRACT

Analysis of the Monitoring Reports of the Office of Special Education Programs/Office of Special Education (OSERS) Regulations demonstrates that, while no one state is in total compliance with all Federal regulations related to the Individuals with Disabilities Act (IDEA), there are many State Education Agencies (SEAs) which have developed programs that successfully address compliance issues related to the delivery of special education and related services to individuals with disabilities. The California Department of Education is currently in "long-standing, serious noncompliance" (OSERS, 1999a) with Federal requirements related to IDEA. The author presents an overview of the issues particular to special education, a brief history of the evolution of laws, regulations, and court decisions related to special education, an examination of the ways in which State agencies, local education agencies, and individuals fall out of compliance with IDEA regulations in the areas of free appropriate public education (FAPE), least restrictive

environment (LRE), the development and implementation of Individualized Education Plans (IEPs) congruent with the needs of students with disabilities, parental involvement, and compliance with new Federal regulations that mandate inclusion of children with disabilities in district- and state-wide assessments. A review of programs and initiatives developed and implemented by several state and local education agencies that have led to more substantial compliance with Federal regulations regarding the delivery of special education and related services in their states has also been undertaken. The intent of the review, and the list of programs appended to this paper, is to compile examples of successful programs that may serve as models for those in California who have been charged with the development and implementation of programs that will bring the California Department of Education/Office of Special Education and its local education agencies into substantial compliance with the requirements of IDEA. Also appended is a series of record-keeping and monitoring checklists designed to aid the special education services provider.

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CHAPTER ONE

INTRODUCTION

Individuals and agencies charged with the delivery of special education and related services to students with disabilities face a morass of legal minutia to which they must adhere. Failure to comply with current legislative mandates can result in due process hearings, litigation, and loss of Federal funds related to special education services (Shriner, 2000; Thurlow, House, Scott, & Ysseldyke, 2000; Koretz & Hamilton, 2000; Yell & Drasgow, 2000; Heufner, 2000). Individuals and agencies charged with the delivery of special education services are expected to understand the laws and regulations under which they are to be delivered. They are expected to comply with those laws and regulations when implementing the programs designed for each student eligible for special education services under those laws and regulations. As Koretz & Hamilton have pointed out:

Legal challenges involving special education students often revolve around the services

provided to an *individual* . . . The legal and policy implications of current district, state, and national activities involve the struggle to improve the system of education for *all* students while protecting the rights of *individual students* (2000). (Emphasis in the original)

The plethora of articles, guides, and books related to an individual's right to special education and related services lends credence to the premise that those making decisions regarding the assessment, placement, and services delivered to students with disabilities face a daunting and difficult task. Laws and regulations are often confusing. Interpretation of the laws and regulations can be ambiguous and unclear (Shriner, 2000). Parents, administrators, and activists are well aware that special education legislation and the implementation of special education and related services is an area of education which cannot be ignored or discounted (see Camp, W. E., Underwood, J. K., Connelly, M. J., & Lane, K. E., 1993.; Hagerty, R. & Howard, T., Johnson, T. 1978; Mayrowetz, D. &

Weinstein, C. S., 1999.; Rawson, M. J., 2000; Siegel, L. M., 1999, & Trohanis, P. L., 1989).

Recent literature and United States Department of Education/Office of Special Education and Rehabilitative Services (OSERS)/Office of Special Education Programs' (OSEP) Monitoring Reports (Reports) indicate that state education agencies have not yet fully mastered the delivery of special education services as they relate to a free appropriate public education (FAPE) in the least restrictive environment (LRE) as determined by the Individualized Education Program (IEP) team. Assessment of students who are receiving special education services "has taken on a leading role in major legislation at all levels" (Shriner, 2000). Other areas of interest, and potential legislation and litigation, include the delivery of special education services to students with disabilities in private schools (Osborne, Jr., Russo, & DeMattia, 1999), early intervention services (Barnett, et al., 1999), discipline policies as they related to students receiving special education services (Hartwig, & Ruesch, 2000; Butera, Klein, McMullen, & Wilson,

1998), sports (Sullivan, Lantz, & Zirkel, 2000) and medical services (Bartlett, 2000). An understanding of the implications of failure to comply with Federal regulations regarding IDEA and the delivery of special education and related services is particularly imperative in California, for no single State has been more severely censured for "long-standing, serious noncompliance" with Federal regulations regarding delivery of special education and related services than our own (OSEP, 1999a).

An understanding of current special education legislation and its implication for delivery of services to children with disabilities must be firmly entrenched in the minds and actions of all special education service providers in California. An examination of the literature pertaining to interpretation of special education legislation, its effect on the delivery of services, and the ramifications of failure to comply with special education mandates, may present a partial roadmap through the maze of new special education legislation. Examining the OSEP Reports may indicate that there are

states, or regions, where local education agencies (LEAs) have been more successful in interpreting the legislation and providing services to children with disabilities. The aim of the author is to present a concise examination of literature related to special education legislation, to look at how its mandates effect delivery of services, and to proffer those Reports as a resource for identifying areas of weaknesses and strengths in the delivery of special education services. Successful programs will be examined. It is suggested that these programs may serve as models to which the California Department of Education (CDE) and local California LEAs can turn when working to revamp existing programs or to develop and implement new program designs at the State and local levels.

CHAPTER TWO

HISTORICAL PERSPECTIVE

The Education Act of All Handicapped Children (EHA) was passed, and signed into law, by the Federal government in 1975. When it was reauthorized in 1990 it was renamed the Individuals with Disabilities Act (IDEA). IDEA was later amended and reauthorized as IDEA '97. Prior to this legislation, "children with disabilities [were] not always welcomed or viewed as potential beneficiaries of what education had to offer" (Wharton, Siders, Fowler, & Naylor, 2000). Many school-aged children were "excluded from school entirely" (Yell, & Drasgow, 2000). With the passing of EHA all children of school age were theoretically afforded the opportunity to a "free appropriate public education" (*ibid*), although it took litigation to clarify many of the Federal mandates. Cases such as *Board of Education of the Hendrick Hudson School District v. Rowley*, 1982, *Hall v. Vance County Board of Education*, 1985, *Board of Education v. Diamond*, 1986, and *Polk v. Central Susquehanna Intermediate Unit 16*, 1988, have both

clarified and expanded Federal expectations as they relate to special education and related services (Yell, & Drasgow, 2000). Legal decisions regarding special education and related services have continued to amass (see Appendix A).

Litigation relating to special education and related services has tended to involve disputes regarding the Individual Education Plan (IEP) (Heufner, 2000); interpretations and implementations of *free appropriate public education* (FAPE) (Butera, Klein, McMullen, & Wilson, 1998); least restrictive environment (LRE) (Thomas, & Rapport, 1998); services offered (Yell & Drasgow, 2000); and assessment (Kleinert, Kennedy, & Kearns, 1999). These areas of delivery of services affect every student who is eligible to participate in special education programs. No state has successfully addressed all issues related to the delivery of special education services. Other aspects related to the delivery of special education services include disputes regarding discipline policies (Butera, Klein, McMullen, & Wilson, 1998; Hartwig, & Ruesch, 2000); school sports (Sullivan, Lantz, &

Zirkel, 2000); delivery of services to students with disabilities enrolled in private schools, (Osborne, Jr., Russo, & DiMattia, 1999); delivery of medical services (Bartlett, 2000); early intervention programs (Hurley, 1989; MacRae, 1989; Martin, 1989; and Gallagher, Throhanis, & Clifford, 1989), and delivery of transition services (Podemski, Marsh II, Smith, & Price, 1995). These areas do warrant further study because they affect many students who are eligible to participate in special education programs. They are, however, beyond the scope of this particular discourse which focuses on the areas of delivery of special education services relevant to all eligible students.

Federal legislation has mandated a free appropriate public education for all students since the implementation of EHA in 1975, although "Congress has never provided a substantive definition of FAPE . . . nor has it ever specifically indicated what components must be included in a student's program" (Yell & Drasgow, 2000). The U. S. Supreme Court has, however, provided a standard to which all special education delivery service providers must adhere:

Eligible students with disabilities are entitled to a level of services that (are) individualized and sufficient for them to benefit from their educational programs (*ibid*).

The lack of a substantive definition of FAPE has led to "frequent disagreements between parents and schools regarding what constitutes an appropriate education for a particular student" (Yell & Drasgow, 2000). Among the most compelling of early litigation regarding FAPE is the *Rowley* decision.

Hendrick Hudson District Board of Education vs.

Rowley was a case decided before the U. S. Supreme Court in 1982. At issue was whether or not Amy Rowley, a first grader in the Hendrick Hudson School District, was receiving a "free and appropriate public education" as mandated by the EHA. Amy's parents were both deaf and she had "only minimal residual hearing" (Lyon, 2001). Although she was "advancing faster than the average child" (*ibid*) the parents litigated for a "qualified sign-language interpreter" (*ibid*) for Amy in all of her classes. The IEP established for Amy already

included "three hours of speech therapy a week with a private tutor, an hour with a tutor in sign language, and a hearing aid for use in the classroom" (*ibid*). The courts ruled in the Rowley's favor at both the district and court of appeals level, citing that "although the child was doing well in school, she was not achieving her full potential because she was not being provided with enough assistance" (*ibid*). The U. S. Supreme Court, however, reversed the decisions of the lower courts, finding that the school district "had acted in accordance with the statute and had not failed to comply with any of its' procedures . . . All evidence showed that Amy was receiving an adequate education . . . and there was no violation of statutory procedures in this case" (*ibid*).

The Rowley decision provided a "two-part test" (Yell & Drasgow, 2000) to determine if a school district or LEA had appropriately placed a student with disabilities. Part one asks, "Has the [school] complied with the procedures of the Act?" Part two asks, "Is the individualized education program developed through the Act's procedures reasonably

calculated to enable the child to receive educational benefits?" (Rowley, 1982). The Rowley decision made it clear that "it was not the place of the [U. S. Supreme] Court to determine what aid should be provided" (Lyon, 2001) for the student who has been mandated to receive special education and related services. The Rowley decision, rife as it is with ambiguity, did little to clear a path that other districts or LEAs could follow to ensure compliance with special education mandates. So much is left to interpretation that further litigation is bound to occur.

Another area of ambiguity is in the area of what constitutes an appropriate placement for a student with disabilities to receive FAPE. One of the primary factors in determining a FAPE for a particular student with disabilities is to make an assessment of the nature of the placement for delivery of services. IDEA mandates that a child be placed in the least restrictive environment (LRE) possible for delivery of services. Specifically, the regulations state that:

1. to the maximum extent appropriate,
children with disabilities, including

children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

2. that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (IDEA '97, §300.550).

As has occurred regarding FAPE, the U. S. Supreme Court "has not addressed the LRE issue directly" which has left interpretation to Federal circuit courts that, acting independently, have "generated a range of distinctive, although overlapping, standards for determination of least restrictive environment" (Thomas & Rapport, 1998). Four unique standards for determining LRE have been identified by authors Thomas & Rapport after examining circuit court decisions between 1981

and 1997. These authors have chosen to refer to these standards as *qualified deference*, *portability*, *inclusion*, and *balancing* (1998).

The *qualified deference* standard, established by the *Rowley* case (Thomas & Rapport, 1998) refers to those situations in which "personalized instruction and supportive services are sufficient to confer some educational benefit upon the child" (Thomas & Rapport, 1998), while still recognizing "IDEA (has) left to state and local educational agencies, in cooperation with parents, the responsibility for formulating the educational programs to be accorded to children with disabilities and for selecting appropriate methods and practices to be utilized" (*ibid*). The circuit courts were "instructed to recognize the expertise of state and local educators and to consider their findings carefully" (*ibid*) before rendering decisions regarding complaints. Cases heard under this standard have led to decisions concerning segregated placement (*Lachman v. Illinois State Board of Education*, 1988); whether or not parents can compel districts to select specific methodology for delivery of services (*Board of*

Education of Community Consolidated School District No. 21 v. Illinois State Board of Education, 1991); and whether or not proper deference has been given to the expertise-driven decisions made by school personnel (*Briggs v. Board of Education of Connecticut*, 1989).

The *portability* standard, determined by *Roncker v. Walter*, 1983, addresses the issue of whether students with severe disabilities would benefit more from being provided services in a segregated facility or in a regular education environment (Thomas & Rapport, 1998). In order to minimize the potential for litigation in this area it must be clear to all involved in the development of the IEP for the student that the benefits of placement in the segregated environment would greatly outweigh placement in a general education environment (*ibid*). The district or LEA may consider whether the placement of the severely disabled student in the general education environment might substantially disrupt the delivery of education services to other members of the class, but this cannot be the only consideration when determining placement (Thomas & Rapport, 1998). Litigation under the

portability standard has involved decisions made by school personnel to place children with severe disabilities in "a more restrictive placement than that available in the public school" (*ibid*) (see *DeVries ex rel DeBlaay, v. Fairfax County*, 1989; *A. W. ex rel. N. W. v. Northwest R-1 School District*, 1987; *Hudson v. Bloomfield Hills*, 1997; & *McWhirt ex rel. v. Williamson County Schools*, 1994).

The precedent for the *inclusion* standard was established by *Daniel R. R. v. State Board of Education*, 1989. Under this standard the courts have proposed only two questions to determine whether a district or LEA has complied with Federal mandate: "(1) Can education in the regular classroom, with the use of supplementary aids and services, be achieved satisfactorily; and, (2) If it cannot, has the school placed the child with nondisabled peers to the maximum extent possible?" (Thomas & Rapport, 1998). Another aspect of the court's decision-making process under this standard is that "the school district must balance the needs of children with disabilities with the needs of nondisabled students" (*ibid*). Based on this

standard, courts have both maintained services for the child in the regular classroom (e.g., *Oberti v. Board of Education of Clementon School District*, 1993) and determined that the appropriate least restrictive environment was a segregated program (*Daniel R. R.*, 1989).

The *balancing* standard is "substantially similar to the *inclusion* standard" (Thomas & Rapport, 1998), based on the case *Sacramento City Unified School District, Board of Education v. Rachel H.*, 1994, in which "the court held that the school district had not satisfied its 'affirmative obligations' to align and implement its resources to maintain a child with moderate mental retardation in the regular class" (Steedman, 2001). The 9th Circuit Court determined that a four-part test established by a district-level court should be upheld. The four criteria are "(a) the academic benefits of full-time inclusion, (b) the non-academic benefits of full-time inclusion, (c) the effect the child has on the regular education teacher and students, and (d) the financial cost of the mainstreaming" (Kraft, 2001). Under these criteria it

was determined that the appropriate placement for Rachel H. was the general education classroom.

Conversely, litigation has also decided in favor of a segregated environment. Such was the case with *Seattle School District, No. 1 v. B. S.* (1996) (Thomas & Rapport, 1998). B. S. was the adoptive mother of A. S., a female child with a history of "early neglect, physical and sexual abuse, abandonment, and placement in several foster homes" who had been diagnosed with "an attachment disorder, an oppositional defiance disorder, a conduct disorder, and a histrionic personality" (*Seattle School District, No. 1 v. B. S.*, 1996). The court determined that "a residential program was the least restrictive environment appropriate to A. S.'s needs [and] required the School District (sic) to pay for an independent assessment of A. S. and to pay the nonmedical costs of A. S.'s placement" (*ibid*) in a segregated environment. These two cases serve to underscore the difficulties faced by special education services providers at the local level when attempting to assess what is best for any given child identified

as being in need of special education and related services.

The primary driving force for delivery of special education services is the Individualized Education Plan (IEP). The IEP is "both the process and the blueprint for the services to be delivered" (Heufner, 2000). It has been called "the most defensible mechanism to ensure meaningful participation of students with disabilities" (Shriner, 2000), that involves "as many risks as it does opportunities" (Heufner, 2000). This is true both for agencies that deliver special education and related services and for each student who receives special education services under its auspices. The Federal mandate of the IEP was established as an educational roadmap that would articulate the delivery of special education and related services for each individual child with disabilities (§300.347). The IEP "includes information on the child's current level of performance, the long-range goals and short-term objectives, (and) the procedures used to document the child's progress toward his or her annual goals" (Epsin, Deno, & Albayrak-Kaymak, 1998). The IEP also

determines a student's LRE (Heufner, 2000; Epsin, Deno, & Albayrak-Kaymak, 1998), related medical services (Bartlett, 2000), behavioral plans (Butera, Klein, McMullen & Wilson, 1998; Hartwig & Reusch, 2000), method(s) of delivery (Yell & Drasgow, 2000), and how, and under what circumstances, students with disabilities will participate in state- and district-level assessments (Kleinert, Kennedy, & Kearns, 1999; Turner, Baldwin, Kleinert & Kearns, 2000; Shriner, 2000; Koretz & Hamilton, 2000; Thurlow, House, Scott & Ysseldyke, 2000; Elliott, Erickson, Thurlow & Shriner).

The IEP can be understood as both a *product* and a *process* (Podemski, Marsh II, Smith, & Price, 1995). As a product:

the IEP form is completed and filed . . . the roles of the participants are dictated by the types of information needed for the IEP form . . . (and) the underlying concern is the legal compliance with the letter of the law. [Conversely], (t)he outcome of the process approach is that free, comprehensive and appropriate services are provided to students

with disabilities . . . participant roles encompass actions directed at the acquisition and evaluation of all pertinent information . . . (and) centers on the ethical compliance with the intent of the law (*ibid*).

Children who may be in need of special education services must be deliberately sought out, referrals made, and a referral conference held before initiating the special education service process (Podemski, Marsh II, Smith, & Price, 1995). Experts in the areas in which the child is being tested must evaluate the child being considered for services, as no single individual or single evaluative instrument can be used to determine the potential placement of a child. Qualified experts must complete assessments and evaluations of each student before the child can be determined to be a candidate for special education services. An IEP meeting must then be held to determine where, under what conditions, and for how much time, the student will receive those services. The IEP meeting must include school or LEA representatives, the student's regular education teacher, the special education

teacher, and the child's legal parent/guardian (§300.344). The meeting must also include any specialists who may have evaluated, or may render service to the child (e.g., speech therapist, psychologist, physical therapist, and medical personnel) (*ibid*). A consensus among the parties regarding the appropriateness of the IEP must be reached to avoid potential litigation.

The development of an IEP that is in accord with student needs and in compliance with Federal mandates can be a daunting task. Legal problems, according to Shriner, (2000) often involve "the extent to which the student's IEP is adequate in both form and application." According to Heufner, both *pedagogical problems* and *legal errors* can arise (2000). Pedagogical problems include the failure to include requirements that emphasize both measurable short-term objectives and the stated criteria for evaluating the achievement of those goals in the IEP; failing to link assessment data with instructional goals and objectives; failing to include social and behavioral goals in the IEPs of students with emotional disturbance; failing to write

goals and objectives that were helpful to the student and understandable to the service providers or failing to implement the goals and objectives that were written (*ibid*). Among the most common legal errors were failing to report current levels of performance; failing to include short-term objectives and evaluation procedures; failing to provide the services of key personnel necessary to address the areas of services stated in the IEP; and failing to make placement determinations based on the needs identified in the IEP (*ibid*).

Another area of concern for the special education services provider is that of state mandated assessments. Assessment, as it relates to students with disabilities, "has been an element of nearly all recent reform, policy, and legislative activities" (Shriner, 2000). States and LEAs are expected to include greater numbers of students with disabilities in state- and district-wide assessments (Shriner, 2000; Elliott, Erickson, Thurlow, & Shriner, 2000; Thurlow, House, Scott, & Ysseldyke, 2000; Koretz & Hamilton, 2000; & Turner, Baldwin, Kleinert, and Kearns, 2000). Obtaining

of Title I (Shriner, 2000) and Part B funds (Thurlow, House, Scott, & Ysseldyke, 2000) are now predicated upon the implementation of "a standards-based accountability system that includes multiple sources of assessment data" (Shriner, 2000). Districts and LEAs are expected to determine if their students with disabilities under their jurisdiction will be excluded from statewide and district-level assessment. If students receiving special education services are included in those assessments, necessary accommodations and/or modifications must be identified, as must any alternate testing methods (Shriner, 2000; Elliott, Erickson, Thurlow, & Shriner, 2000; Thurlow, House, Scott, & Ysseldyke, 2000; Koretz & Hamilton, 2000; & Turner, Baldwin, Kleinert, and Kearns, 2000).

OSERS has provided the following information regarding assessment of students with disabilities on its website:

The statutory provisions on general state and district-wide assessments from the IDEA Amendments of 1997 have been incorporated, essentially verbatim, into the final Part B

regulations. These provisions require that the state have on file with the Secretary information to demonstrate that:

1. Children with disabilities are included in general state and district-wide assessment programs, with appropriate accommodations and modifications in administration, if necessary; and
2. As appropriate, the State or LEA develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; develops alternate assessments; and beginning not later than July 1, 2000, conducts the alternate assessments. (§300.138.). . .

The Act and its' attendant regulations further provide that:

the SEA must make available to the public, and report to the public 'with the same frequency and in the same detail as it

reports on the assessment of nondisabled children . . . on the number of children with disabilities participating in both regular and alternate assessments; and on the performance results of these children (\$300.139.)

The regulations further state that the reports must include:

aggregated data that include the performance of children with disabilities with all other children, and . . . disaggregated data on the performance of children with disabilities . . . (\$300.139(c) and (d)).

OSERS also notes the following:

IDEA '97 makes it clear that students with disabilities must be included in state and district-wide assessment programs, with appropriate accommodations and modifications, where necessary. Thus, states and LEAs must ensure that for children who need accommodations and modifications in order to participate in a given assessment, those

accommodations and modifications are provided. Examples of possible accommodations in test presentation, response mode, and setting, include -- oral administration, large print, Braille version, individual and separate room accommodations, extended time, and multiple test sessions. The individualized determinations of whether a child will participate in a particular assessment, and what accommodations, if any, are appropriate should be addressed through the IEP process in §300.347(a)(5).

Flexibility is allowed for states and LEAs to appropriately include children with disabilities in state and district-wide assessment programs, and only minimum regulations have been included regarding how public agencies provide for the participation of these children. The Department is working with state and local school personnel, parents, experts in the field of assessment, and others interested in the area of

assessment to identify best practice that could serve as the basis for a technical assistance document. (OSERS, 2001. NOTE: text is verbatim, format has been altered by the author).

Although Federal regulations have stipulated that programs must be in place to include students with disabilities in assessment programs using alternate assessments no later than July 2000, 36 states had not yet begun the development or implementation of such programs as late as 1997 (Erickson & Thurlow, 1997). Regulations regarding assessment have added yet another layer to the legal morass that threatens to engulf the state and local level providers of special education services.

Of the 5,801,768 children, ages six through 17, estimated to have lived in California during the 1998-1999 school year, 542,168 received special education services (U.S. Department of Education, 2000). Each of those students was entitled to a "free appropriate public education" in the "least restrictive environment" from a continuum of placement

possibilities as determined by an Individualized Education Plan developed by a team of parents, professionals, specialists, other legitimately interested parties, and, if appropriate, the student. Legislation, case law, regulations, and other legal minutiae deluge the education specialists from both the Federal and state levels. Legal decisions have often been ambiguous. An IEP team may consider vastly different placements, any one of which may be determined to be the correct placement for one student with a disability and an incorrect placement for another student with a virtually identical disability.

Is it possible to cross the legal mine field related to the delivery of special education and related services successfully? Are there programs that have been implemented that have addressed delivery of special education and related services in a way that complies substantially with Federal mandates? Are there programs currently in place elsewhere that might serve as guidelines for developing programs in California that will offer respite from its current designation as one of two states in "long-standing, serious

noncompliance" (OSERS, 1999a)? These questions, and others, will be answered in the remainder of this paper.

This overview of the quagmire through which providers of special education and related services must trek has provided a rationale for further research into district- and state-wide programs that successfully address IDEA '97 mandates. The bulk of the remainder of this paper offers an analysis of information contained in the Monitoring Reports (Reports) of the Office of Special Education and Rehabilitative Services (OSERS), Office of Special Education Programs (OSEP), for the purpose of stimulating interest in the Reports, as a resource for those individuals charged with developing, implementing, and maintaining delivery of special education services. The Reports illustrate how demographics, geography and population density have influenced the implementation of IDEA regulations around the nation. They can also serve as a resource for further research into methods and programs that will improve the delivery of special education services

to all students who qualify for special education and related services. If analysis can show that there are states, or regions, that are in substantial compliance with IDEA '97 standards, it may be possible to use them as models for developing more successful programs in California, which is currently in "long-standing, serious noncompliance" (OSERS,1999a) with those regulations.

CHAPTER THREE

METHODOLOGY

All Office of Special Education Programs Monitoring Reports (Reports) available to the public on the OSERS/OSEP web site as of April 2001 were examined for this study. Statistics related to the delivery of special education and related services were drawn from the U. S. Department of Education publication, To Assure the Free Appropriate Public Education of All Children with Disabilities: Twenty-second Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act (2000). The Reports were compared against sections of IDEA, Part 300 - Assistance to the States for the Education of Children with Disabilities (1997) to determine which areas of IDEA were most likely to be violated by the greatest number of states in the areas of free appropriate public education (FAPE), least restrictive environment (LRE), Individualized Education Programs (IEPs), transition services, procedural safeguards and general supervision. These particular aspects of IDEA were

selected because they are potentially applicable to every child who receives special education and related services. In the area of FAPE, the Reports were compared against IDEA, Part 300, sections §§300.000 - 300.313, inclusive. Aspects of a free appropriate public education addressed in these sections include what constitutes provision of FAPE, program options to be considered, nonacademic services to be provided, physical education provisions, extended school year services and the requirements for students with disabilities in adult prisons. LRE requirements are covered in sections §§300.550 - 300.556, inclusive. These sections pertain to the continuum of alternative placements and nonacademic settings, as well as placement requirements for children in private institutions. Individualized Education Programs are covered in sections §§300.340 - 300.350. These sections address responsibilities related to IEPs; when IEPs must be in effect; when IEP meetings should be held and who should attend them; development, review and revision of IEPs; transition services; and accountability, among others. Procedural safeguards,

which include the process for filing a complaint, are covered in sections §§300.660 - 300.662. (See also §§300.504, 300.505, and 300.512 (a) and (c)). General expectations related to IDEA are addressed in §§300.600 - 300.602. (See Appendix B for text of applicable sections).

The Reports were examined to determine if there were aspects of IDEA requirements related to the delivery of special education and related services in which the majority (or all) of the states were identified as being in noncompliance in similar ways. Demographic information was used to determine if geographic region, population density, rural vs. urban environment, and other differences might be indicators of specific compliance issues. The development and implementation of programs that successfully addressed specific areas of compliance were compared against diverse demographic groups. This comparison was made to determine whether or not program success was limited to one particular demographic type or might serve as a model across broad demographically diverse populations.

Thirty-three Reports submitted between the years 1993 and 2000 were surveyed for this study - Nebraska (1993); New Hampshire (1994); Connecticut, Delaware, Maryland, North Carolina, South Carolina and Virginia (1995); Alabama, Georgia, Kansas, Rhode Island, and Vermont (1996); Mississippi, Oklahoma, Texas, and West Virginia (1997); Florida, Missouri, and Oregon (1998); California, New Jersey, North Dakota, Pennsylvania, South Dakota and Utah (1999); and Arizona, Arkansas, Bureau of Indian Affairs, Massachusetts, Montana, Nebraska, and Wisconsin (2000). None of the states reviewed was in complete compliance with new Federal special education regulations.

OSEP conducts reviews of how special education and related services are delivered by the state and local agencies that accept funding from the U. S. Department of Education under the Individuals with Disabilities Education Act (IDEA). The standards by which OSEP bases its determinations of state compliance with IDEA are those under which the state was operating at the time of the review. A review which was conducted prior to 1997, such as the one in

Connecticut, conducted in December of 1993 (OSERS, 1995b), would be reviewed "to determine whether the Connecticut Department of Education (CDSE) was meeting its responsibility to ensure that the State's programs for children with disabilities are being administered in a manner consistent with the requirements of (1) Part B and its implementing regulations, and (2) the Education Department General Administrative Regulations (EDGAR)" (*ibid*) based on then current IDEA regulations and requirements. Those SEAs for which OSEP conducted a review prior to the June 4, 1997 enactment of IDEA '97 would be reviewed based on the pre-1997 standards even if the report was completed and dated after the June 1997 enactment (OSERS, 1997a). All SEAs for which reviews were conducted after the June 1997 enactment of IDEA '97 were reviewed based on requirements and regulations of IDEA '97. The standards by which the states in the body of this work are compared, then, are based, not on how they compare with each other, but on how well or poorly they complied with Federal special education regulations as determined by OSEP at the time of their reviews.

The procedures by which OSEP conducted their reviews of the delivery of special education and related services have not differed drastically over the years represented by the Reports examined in this study. OSEP examined state documents related to the State Education Plan, State regulations, interagency agreements "and other materials that must comply with the requirements of Part B, such as complaint management, due process hearings, and State monitoring systems" (e.g., OSERS, 1996a and 2000a). OSEP also involved, through interviews and public meetings, "parents, advocacy groups, teachers, educators, administrators, and other interested citizens" (e.g., OSERS, 1996a). The purpose of the meetings and interviews was to assist OSEP in (1) identifying the issues faced by consumers and others interested in special education [in the concerned State], (2) selecting monitoring issues (e.g., the provision of extended school year services) to be emphasized while on-site; and (3) selecting the sites to be visited" (OSERS, 1996a & others). School sites were visited, and teachers, administrators and others were interviewed

(*ibid*). Sites chosen included elementary schools, middle schools, high schools, alternative and vocational schools, early intervention provider locations (when appropriate), correctional facilities, and other sites where special education and related services were provided (*ibid*).

Results of the reviews by OSEP were returned to the states as monitoring reports. The Reports examined areas in which states had failed to comply with Federal regulations regarding delivery of special education and related services to individuals who were eligible for such services. It also made note of areas in which states had developed and implemented innovative programs aimed at reducing noncompliance and enhancing the delivery of those services.

The author undertook a qualitative analysis of the Reports. Although the quantitative data is of interest (i.e., which states violated which sections of IDEA '97 how many times as compared to other states) what was of more interest to the author was the methods employed by state and local agencies to address the violations and provide better services for the students with

disabilities in their areas. The current study evaluated the data and compared it against IDEA '97 Part B regulations. The demographics of the state and local education agencies were considered. Population density, teacher-to-student ratio, and the number of credentialed as opposed to non-credentialed teachers were among the data examined. The purpose of the examination was to determine whether innovative programs mentioned in the Reports appeared to have more valid application under specific conditions. Were innovations that had been developed in states that encompassed a majority of small rural districts valid only for districts with similar demographics? Or was it possible that those same innovations could be used (or had been used) to develop programs in states with a denser, more urban population?

CHAPTER FOUR

RESULTS

Only one state, Delaware, received a Letter of Findings rather than a formal monitoring report after its OSEP review. The Letter of Findings was sent to the State Department of Public Instruction in lieu of a monitoring report. The introductory letter that accompanied the Letter of Findings stated that:

It is OSEP's routine to present its findings of noncompliance in a monitoring report. However, because OSEP found only a limited number of systemic problems in the implementation of Part B and EDGAR in Delaware, OSEP instead is notifying you of its findings in this Letter of Findings" (OSERS, 1995c) . . . "Specific areas in which OSEP previously identified systemic deficiencies but noted no such deficiencies during the current visit include(d): individualized education program (IEP) content, content of the State model parents'

rights notice, (and) timely complaint resolution" (*ibid*). OSEP also "did not find problems in [Delaware's] fulfillment of its general supervisory responsibilities [regarding] timelines in due process hearings, content of parents' rights notices, complaint management, and individualized education programs" (*ibid*).

Delaware, a small state geographically (1,933 square miles), provided special education and related services to 16, 233 individuals with disabilities, ages 3 - 21 inclusive, during the 1998-99 school year United States Department of Education, 2000). One thousand five hundred eleven teachers (1, 216 certificated; 295 non-certificated) (*ibid*) provided services to these students, a ratio of approximately one teacher per every 11 students (1:11) during that time period. Seven positions for teachers of students with disabilities were unfilled (United States Department of Education, 2000).

According to these Reports the two states identified by OSEP as most significantly out of

compliance were California (OSERS, 1999a) and New Jersey (OSERS, 1999c). California provided special education and related services to 623,651 individuals with disabilities, ages 3-21 inclusive, during the 1998-99 school year (U. S. Department of Education, 2000). Those services were provided by 25,837 teachers (21,503 certificated; 4,334 non-certificated; 358 vacancies), a teacher-to-student ratio of approximately 1:25 (*ibid*). In New Jersey, 15,246 teachers (all certificated; 88 vacancies) provided services to 210,114 students with disabilities (*ibid*), a teacher-to-student ratio of approximately 1:14).

The remaining states provided special education and related services to between 12,709 students (Vermont) and 486,749 students (Texas) with student-to-teacher ratios of between 1:9 (South Carolina) and 1:25.2 (Oregon) (*ibid*). Five states (Connecticut, Kansas, Massachusetts, New Jersey, and Pennsylvania) had no non-certificated teachers and one state (Connecticut) had no vacant positions in special education (*ibid*). During the 1998-1999 school year between 9.2% (South Dakota) and 15% (Rhode Island) of

children, ages 6 - 17 inclusive, received special education and related services (*ibid*), a difference of 5.8%. According to figures released by the U. S. Department of Education in its Twenty-second Annual Report on the Implementation of the Individuals with Education Act (2000) an average of 11.42% of students received special education and related services in the thirty-three states examined by the author.

Several states were admonished for noncompliance issues that were particular to the state (e.g., Mississippi for an overrepresentation of African-Americans identified as mildly mentally retarded (OSERS, 1997a) and Connecticut for over-identifying students as Socially and Emotionally Maladjusted (SEM) - that state's equivalent of the Federal category 'severely emotionally disturbed') (OSERS, 1995a). The majority of states in this study, however, tended to be identified as being in violation of the same areas of IDEA regulations. Included among them are the areas of General Supervision, FAPE, LRE, the IEP, Procedural Safeguards, and Transition Services, which will be articulated below.

General Supervision

In the area of General Supervision, the State Agency is responsible for ensuring that "the requirements of Part B are carried out and that each educational program for children with disabilities administered by any other public agency, meets the requirements of Part B and the education standards of the State Education Agency" [\$300.600(a)(2)(ii)]. Each state has responsibility for "effective implementation of the SEA's" Complaint Management system (\$300.660(a); \$300.661(c); \$300.662). The most significant area of noncompliance was the inability of the state education agencies to "ensure that all complaints (were) investigated and resolved within the timeline" (e.g., Maryland (OSERS, 1995c); New Hampshire (OSERS, 1994); Texas (1997c)) required by IDEA and SEA standards.

There were many reasons for noncompliance in this area, according to interviews conducted by OSEP and cited in the reports. Respondents to interviews of school personnel in Arizona, for example, stated that there was miscommunication among the staff regarding who was responsible for submitting complaint-related

documentation (OSERS, 2000a). In Maryland "no written policy or guidelines" (OSERS, 1995c) outlined the procedures for conducting complaint investigations.

Respondents interviewed in South Carolina told OSEP that there were no provisions in the State which gave a parent who had made a complaint regarding the delivery of special education services "an opportunity to submit additional information either orally or in writing," (OSERS, 1995e) which is a violation of Federal regulation. Respondents in Arizona suggested that complaints were not addressed in a timely manner because the complainant did not cooperate (OSERS, 2000a). Internal staffing problems, personnel shortages and changes in staff assignments were cited in several states (e.g., Arizona (OSERS, 2000a) & Maryland (OSERS, 1995c)).

States education agencies are also responsible under guidelines developed for General Supervision to ensure that eligible individuals incarcerated in correctional facilities receive the special education and related services to which they are entitled. The majority of the states (e.g., Alabama, New Hampshire,

Oregon, South Carolina, and Vermont - OSERS 1996a, 1994, 1998c, 1995e & 1996e, respectively) did not adequately address complaints that a free appropriate public education was not made available to "eligible youth with disabilities who were incarcerated in the State's adult prisons" (OSERS, 2000a).

Free Appropriate Public Education

Areas in which OSEP found states to be consistently out of compliance with IDEA regulations regarding free appropriate public education (FAPE) included "available program options" (§300.505) in which "children with disabilities have available to them the variety of education programs and services available to nondisabled students" (*ibid*). The majority of violations related to this section of FAPE was in the area of the provision of vocational education opportunities to students with disabilities (e.g., Connecticut (OSERS, 1995a); Missouri (OSERS, 1998b); Nebraska (OSERS, 2000f)). Reasons for failure to comply with FAPE included the assumptions that "students with moderate or significant disabilities would not qualify"

(Connecticut (OSERS, 1995a) and that "the extent to which students with disabilities [were] educated with nondisabled students in the regular classroom [depended] upon available education aides" (Nebraska (OSERS, 2000f)).

State agencies are "responsible for ensuring that all children with disabilities are provided a free appropriate public education, including assuring that public agencies consider and make available extended school year services to students with disabilities, if necessary" (§300.000; §300.8). The majority of states (e.g., Alabama, Georgia, North Dakota, Oregon (OSERS 1996a, 1996b, 1999c & 1998c, respectively)) had SEAs in which no extended school year services were available. Other SEAs did not offer extended school year services because teachers and administrators were "unsure of the criteria for extended school year" (e.g., Alabama (OSERS, 1996a); Connecticut (OSERS, 1995a) & Georgia (1996b)). Violations of this section occurred when extended school year services were not considered at IEP meetings (e.g., Alabama (OSERS, 1996a) North Dakota (1999c)), were considered only for students with

particular types of disabilities (e.g., Arkansas (OSERS, 2000b); Connecticut (OSERS, 1995a); Florida (OSERS1998a); Rhode Island OSERS, 1996d)) or were specifically not considered for students with particular types of disabilities (e.g., Connecticut (OSERS, 1995a)). In still other instances all students found eligible for extended school year services received "the same number of hours and the same days per week as well as the same number of weeks regardless of individual student needs" (e.g., Arkansas (OSERS, 2000b)& North Dakota (OSERS, 1999c)). This suggests that the school system did not address the individualized instruction mandated for each individual student.

Students with disabilities who are eligible for special education and related services may be provided transportation under IDEA. When the transportation provided consistently caused students to arrive to school late, leave school early, or both, due to "administrative problems with transportation" (e.g., Florida OSERS, 1998a)& Mississippi (OSERS, 1997a)) the SEAs who provide transportation services under those

conditions were in violation of §§300.300 and §300.8(b). These two sections compel SEAs to ensure that the length of the school day for the students with disabilities meets the state standards for length of school day set for their nondisabled peers.

Another area of compliance outlined in Federal regulations regarding FAPE includes "related services." Public agencies "must ensure an adequate supply of qualified personnel, including special education and related services personnel and leadership personnel, necessary to carry out the purposes of IDEA" (§300.300(a)(3)(I); §300.381). Services provided to children with disabilities must address "all of the child's identified special education and related services needs," including the need for psychological counseling to "each child with a disability who requires that related service to benefit from special education." (*ibid*). The most pervasive area of noncompliance regarding related services across all states, including Delaware (OSERS, 1995b), was that IEP teams "routinely (did) not include psychological counseling services on students' IEPs, regardless of

individual student needs" (e.g., Arkansas, Connecticut, Florida, Montana, Missouri (OSERS, 2000b, 1995a, 1998a, 2000e & 1998b, respectively). Students with "behavioral problems" (Nebraska, OSERS, 1993)) and students who were identified as having an emotional disturbance (Connecticut (OSERS, 1995a)) were particularly singled out as not being provided with psychological counseling as a related service.

There were many reasons given for not providing psychological counseling as a related service to students with disabilities. Individuals from one district in Nebraska told OSEP reviewers that "necessary counseling is not the responsibility of the school and would not be provided as a component of a free appropriate public education regardless of student need." (OSERS, 1993). This is a violation of Federal requirements and clear evidence that there were individuals and representatives from LEAs within Nebraska who did not understand the laws regarding the provision of related services to students with disabilities. It is the responsibility of the SEA to ensure, through training or some other means, that

representatives from the LEAs within that State are familiar with the requirements of IDEA (*ibid*).

Administrators, teachers and related services personnel in several states suggested that large caseloads and insufficient personnel, especially as it relates to "ongoing counseling services to students with behavioral problems, emotional needs, or both" were of major concern in their states (e.g., Arkansas, Texas, New Hampshire, Florida, North Dakota (OSERS, 2000b, 1997c, 1994, 1998a & 1999c, respectively)). Sometimes, students who needed psychological counseling were "provided service by private therapists at the expense of the parents" [emphasis added] rather than by the local special education and related services provider (Oregon (OSERS, 1998c)). When such psychological counseling was not readily available, it sometimes became LEA policy not to identify the need for such services on a student's IEP, even "when such services are needed in order for a student to receive [FAPE]" (e.g., Arkansas, Missouri, South Carolina, Texas (OSERS, 2000b, 1998b, 1995e & 1997c, respectively)).

Other related services, which routinely were not offered to students with disabilities, included speech, occupational and physical therapies, social work services, and assistive technology services and devices. Two of the most commonly cited reasons for not providing these services were lack of sufficient funds and lack of qualified personnel. Individuals from an LEA in Missouri, for example, informed OSEP that "assistive technology services and devices were considered by the IEP team, but it was with the understanding that the devices would not be provided unless they could be borrowed, supplied by another agency, or provided by the parent." (OSERS, 1998b). In Connecticut, social work services were provided only as group counseling, by classroom, "with a focus on district initiatives such as conflict resolution, as well as crisis intervention" (OSERS, 1995a). The social work services provided by that State, and specified on the IEP, "could be changed or discontinued by the social worker, based on the judgment of the social worker," without reconvening the IEP team (*ibid*).

State agencies must have evaluation procedures both for initiation of provision of services and to ensure that students with disabilities are reevaluated at least every three years (§300.000; §§300.530-300.534; §300.530(a); §300.500(b)). Evaluation procedures "determine whether a child has a disability and the nature and extent of the special education and related services that the child needs." (*ibid*). A state may not "deny or delay a child's right to FAPE by failing to provide initial evaluation and placement within a timeframe established by State standard" (*ibid*) according to IDEA '97, yet, the majority of the Reports examined for this survey showed that "initiation of provision of services" was a significant compliance issue nationwide. Two different LEAs in Connecticut, according to its Report, delayed initial placement of 17% of their students identified as needing special education and related services by between 15 and 330 days (OSERS, 1995a). In Missouri, where "initial evaluation was delayed because of a shortage of evaluation personnel" (OSERS, 1998b) initial referral of 69% of students in one LEA exceeded the

State 105-day timeline by anywhere from one day to more than nine months, 1,013 students out of 1,458. (*ibid*).

Three-year reevaluations often also exceeded timeline requirements. Four LEAs in Connecticut, for example, were between one month and four years overdue at the time that OSEP conducted its evaluation (OSERS, 1995a). One Virginia LEA, as another example, was found to have been as much as 3 years overdue on the triennials of several of its students (OSERS, 1995f). The most common violations of written reports related to evaluation of students with disabilities for special education and related services were (1) no report of the evaluation was written; (2) no separate statements presenting conclusions that differed from the team as a whole were included; and (3) every team member did not separately certify in writing that the report reflected his or her conclusion (e.g., Connecticut (OSERS, 1995a)).

Least Restrictive Environment

Students with disabilities must receive a free appropriate public education. (emphasis added) One of

the most important aspects of FAPE is that the student with disabilities will be placed in the least restrictive environment (LRE). State agencies must comply with IDEA '97 in order to ensure the LRE of all students with disabilities who receive special education and related services under their jurisdictions. Public education agencies must ensure:

1. That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
2. That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (§300.550(b)).

The placement decision must be made by a group of persons that include the parents and "other person's

knowledgeable about the child, the meaning of the evaluation data, and the placement options", and must be "based on the child's IEP" (§300.552 (b)1&2). Each time an education agency "proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child"; or "refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child" a written note must be provided to the parent that offers "a description of the action proposed or refused by the agency. . . an explanation of why the agency proposes or refused to take the action" [and] " a description of any other options that the agency considered and the reasons why those options were rejected" (§300.503).

There are many ways that state agencies and LEAs have violated these sections of Federal legislation. Nearly every public agency examined for this study was noted by OSEP as being in violation of LRE requirements. The most frequently noted violations were the following: (1) making the decision to remove students with disabilities from regular education

environments based, not on individual determination of student need, but on formal or informal policy which held that alternative placement was the only option for these students; (2) not considering regular education with supplementary aids and services at all annual reviews, (3) not providing a continuum of alternative placements for students with disabilities; (4) not making available the "variety of educational programs and services" to disabled students that are available to their nondisabled peers, and (5) not providing opportunities for children with disabilities to participate with non-disabled in nonacademic and extracurricular services and activities. In virtually every LEA surveyed by OSEP, students with disabilities were removed from the regular education environment due to administrative convenience, lack of appropriate personnel, or both, even if the child's education could be achieved satisfactorily in regular education with supplementary aids and services.

OSEP cited specific examples of violations of LRE in several states. In one LEA in Missouri, for example, students who had been diagnosed with significant

disabling conditions involving physical impairments, emotional impairments, or mental retardation, were not considered for regular class placement with the use of supplementary aids and services by IEP teams because of "space limitations, concerns about safety, and lack of knowledge about agency policy on the part of IEP team participants" (OSERS,1998b).

In Connecticut, individualized placement decisions for SEM (SED) students needing a self-contained classroom were not made. The only placement offered to these students was in a separate facility, away from the regular education environment. The students identified as SEM were not offered a continuum of placements opportunities, were not given the opportunity to participate in extracurricular and nonacademic activities with their nondisabled peers, and had no opportunity to "mainstream" in the regular education environment (OSERS, 1995a).

In one LEA in Florida, the general education classroom was not considered for a child classified as "borderline educable mentally handicapped/trainable mentally handicapped" because, to quote administrators

and teachers from that facility, "regular education (was) not an appropriate option" (1998a). In one LEA in Georgia, it was the expectation of teachers and administrators that in order for students to achieve success in regular education environments, it was the student, rather than the environment, who needed to change. A student was required to demonstrate progress in a special education class before the agency would consider a regular education placement. No modifications or accommodations to the regular education setting, or "supplementary aids and services," were considered. In another LEA in Georgia, placement was determined by the category of disability, and the IEP was written around the predetermined placement, rather than being based on the individual needs of the student (OSERS, 1996b). In one LEA in Mississippi, IEP teams would not place a special education student in a regular education class with same age peers, but in a classroom with younger students one or two grades below the grade to which the student would normally be assigned (OSERS, 1997a).

Of particular concern to OSEP in Mississippi were the percentages of students with specific learning disabilities who were placed in environments outside the regular classroom setting (OSERS, 1997a). OSEP reviewed the comparison between the national percentages of students in this category in regular class, resource room, and separate placement, and students with specific learning disabilities in Mississippi. The percentages reported by Mississippi were well below the national average for placement of students with specific learning disabilities in regular class settings, and well above the national average in separate class placements for specific learning disabilities. (Fig. 1). OSEP noted this disproportionate placement of students with SLD as a violation of IDEA'97 mandates regarding LRE.

Table 1. Placement of Students with Specific Learning Disabilities in Mississippi

	General	Resource	Separate
U. S. Average	39.3%	41.0%	18.8%
Mississippi	19.7%	53.1%	26.8%

Data represented in OSERS, 1997a: Mississippi

Individualized Education Plan

The cornerstone that ensures a student with disabilities receive a free appropriate public education in the least restrictive environment is the Individualized Education Plan (IEP). The LEA must "take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate" (§300.345). The LEA must also notify parent "early enough to ensure they will have the opportunity to attend", inform them of the "purpose, time, and location of the meeting and who will be in attendance" and schedule the meeting "at a mutually agreed on time and place" (*ibid*). If for some reason a parent (or guardian) cannot attend "other methods" including "individual or conference telephone calls" should be utilized (*ibid*). Furthermore, if the public agency is unable to convince the parents that they should attend it must provide:

- a record of its attempts to arrange a
- mutually agreed on time and place, such as .
- . . . detailed records of telephone calls made

or attempted and the results of those calls.

. . . copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits" (§300.345).

When an SEA or LEA has in place a monitoring process that does not include policies and procedures to ensure that records of attempts are maintained when the public agency is unable to convince the parents to attend meetings to develop the child's IEP, that agency is in violation of IDEA regulations, as noted above. When an IEP meeting is conducted without the child's parent in attendance and the public agency documents only one attempt to arrange for parent attendance, that agency is out of compliance. The public agency must document a variety of methods that were used to try to ensure the participation of parents in the IEP team meetings. Documentation of individual phone calls to the parents, conference calls made to the parents when the IEP meeting is in session, and documentation of home visits are all part of the paper trail that

illustrates reasonable attempts were made to ensure that parents were invited to participate in the IEP decision-making process. Failure to document these attempts (even if such attempts were actually made) is a violation of the monitoring portion of the IDEA regulations regarding the IEP. The significance of the need to document every attempt to contact parents cannot be underestimated. A checklist for documentation of phone calls, assessment records, observations undertaken, and other information vital to placement and delivery of special education and related services has been appended to this paper as an aid for education specialists at the local level. (Appendix E: SUPPLEMENT)

An IEP is out of compliance with Federal regulations if it does not describe what the student with a disability could reasonably expect to accomplish within a 12-month period (e.g., New Hampshire (OSERS, 1994); Rhode Island (OSERS, 1996d) & Vermont (OSERS, 1996a). The IEP must also include a schedule for determining, on at least an annual basis, whether short-term educational objectives are being achieved.

Not including the schedule is a violation (e.g., Connecticut (OSERS, 1995a). A student's present levels of educational performance must be clearly identified for the specific areas of special education and any related services for which the student qualifies (e.g., New Hampshire (OSERS, 1994); Rhode Island (OSERS, 1996d) & Vermont (OSERS, 1996a). If a student is identified as having a specific behavioral problem that interferes with performance in a regular education environment without supplementary aids and services, a statement regarding appropriate behavioral supports for success in the regular classroom must be included on the IEP. Failure to provide this information on the IEP is a violation (e.g., Nebraska (OSERS, 2000f). It is also a violation if a local education agency representative is not present at the IEP meeting (e.g., New Hampshire (OSERS, 1994).

Procedural Safeguards

According to Federal requirements, state agencies must make provisions for procedural safeguards that protect the rights of students and parents. Among these

safeguards are impartial due process hearings (§301.512(a) and (c), prior notice (§300.504) and content of notice (§300.505). Unless a specific time extension is granted, a state agency is responsible for ensuring that "not later than 45 days from the receipt of a request for a [due process] hearing, a final decision is reached and a copy is mailed to each of the parties." (*ibid*). Areas in which states were most likely to violate the due process hearing requirements were in (1) offering extensions for unspecified periods of time (e.g., Alabama (OSERS, 1996a) & New Hampshire (OSERS, 1994)); (2) beginning the timeline after the Agency received the request rather than from the day the request is received by a local district (e.g., Arizona (OSERS, 2000a) & Florida (OSERS, 1998a)); (3) having no monitoring procedures in place to ensure that any extension is "by a hearing officer, for a specific period of time, and at the request of a party" (e.g., Florida (OSERS, 1998a); Kansas (OSERS, 1996c), Maryland (OSERS, 1995c)); and (4) when requests that resulted in a hearing decision were not completed within specified timelines (legal number of days an education agency has

to perform specific tasks such as responding to a complaint by a parent regarding a student's placement) (e.g., New Hampshire (OSERS, 1994) & South Carolina (OSERS, 1995e)).

In the area of prior notice of an IEP meeting:

Written notice must be given to the parents of a child with a disability a reasonable time before the public agency . . . proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education (§300.504).

The notice to parents must include a full explanation of all of the procedural safeguards available to the parents. A description of the action proposed or refused by the agency, and explanation of why the agency proposes or refuses to take the action must be provided, in writing, to the parent. A description of any options the agency considered and the reasons why those options were rejected must also be included. A description of each evaluation procedure, test, record, or report the agency uses as a

basis for the proposal or refusal must be written and provided to the parents. Failure to do so violates Federal regulations (§300.504).

The most significant area of noncompliance regarding notice from the majority of state agencies reviewed was that written notice was not given:

To the parents of a child with a disability a reasonable time before the public agency propose(d) or refuse(d) to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education" (*ibid*). Regulations have made it clear that parents must be notified when any changes are made regarding the delivery of special education services to their child.

Other areas of noncompliance were addressed in the Reports regarding specific states. Notice to parents did not include full explanation of procedural safeguards in New Hampshire (OSERS, 1994). The state agency in New Hampshire also had not established or implemented effective procedures to ensure that a

parent's refusal to consent to 'other services and activities' did not result in a failure to provide the child with a FAPE (*ibid*).

Notice was not consistently provided to parents when changes were made at annual review meetings in Florida (OSERS, 1998a). Also in Florida, in one local agency, the only notice provided to parents was an invitation sent two weeks prior to the meeting (*ibid*). Another clear violation noted by OSEP in Florida was of an agency that has already determined what changes were going to be proposed at the meeting, and the parent was informed verbally about the changes at the meeting (*ibid*). Also noted by OSEP in Florida were cases in which the parent did not attend the meeting and the IEP was mailed to the parent at a later date, and cases in which the notice was not given to the parents a reasonable time before the public agency implemented the changes in the special education services (*ibid*).

One agency in Georgia altered the Parental Rights Notice, omitting entirely the section explaining the parents' right to be told whenever a change was made to the educational services being provided to their child.

In a procedural change designed to reduce paperwork, the state agency had determined that documentation informing the parents was only required for placement in separate school settings. As a result, parents were not receiving notice with appropriate content because of state guidance, agency practice, or variance in IEP forms used by the local agencies (OSERS, 1996b).

In Missouri IEPs were sent from one local agency to all the parents of students with disabilities in lieu of prior notice (OSERS, 1998b). The space on all IEP indicating the options considered and the reasons those options were rejected was omitted, as was the individual placement justification statement (*ibid*). According to the administrators and teachers interviewed by OSEP, these changes to the IEP forms were made on the advice of the state agency (*ibid*).

Another area that proved problematic for LEAs was that when the parent's *native language or communication mode is not a written language*, (emphasis added) the agency did not take steps to ensure that the notice was translated orally or by other means to the parent in his/her native language or mode of communication.

Provisions were not made to ensure that parent understood the notice content, and that there was written evidence that those requirements had been met (e.g., New Hampshire (OSERS, 1994); Oklahoma (OSERS, 1997b)).

Transition Services

IDEA'97 has mandated that students who are eligible for special education are required to receive transition services. Transition services promote "movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation" (§300.29). Transition services are "based on the individual students' needs, taking into account the student's preferences and interests" and include "instruction. . . related services . . . community experiences. . . the development of employment and other post-school living objectives . . . and . . . if appropriate, acquisition of daily living

skills and functional vocational evaluation" (*ibid*). By age 14, or younger "if determined appropriate by the IEP team" transition services that focus "on the student's course of study (such as participation in advanced-placement courses or a vocational program" (§300.347(b)(1)) must be developed, agreed upon by the IEP team, and written into the IEP. By age 16, transition services that include interagency responsibilities must be included (§300.347(b)(2)). Agencies to which the student may transition can include the Social Security office, mental health services, or other agencies that may be deemed necessary by the IEP team to help the student transition from the school environment to the post-school work and/or community environment. A representative of any agency which is to provide post-school services must be present at an IEP meeting where such services are being discussed (§300.347).

Transition services, a particular focus for changes to IDEA '97, have been problematic for state agencies. Even Delaware, the one state to which OSEP provided a Letter of Finding rather than a Report, had

areas related to transition services that had to be corrected (OSERS, 1995b). State and local agencies were most likely to violate Federal regulations regarding transition services (1) by failing to provide Written Notice to parents that a purpose of the IEP meeting would be the consideration of transition services; (2) by failing to indicate on the Notice that the student had been invited to the meeting; and, (3) by failing to make an individual determination as to whether it was appropriate for a representative of any other agency likely to be responsible for providing or paying for transition services to be invited to the IEP meeting where transition services were being determined. If a student was invited but did not attend the meeting to consider transition services, the agency must have documented any steps taken to consider student's preferences and interests in developing the statement of needed transition services (§300.347). Transition services were not addressed during annual reviews in Oregon (OSERS, 1998c), for example. IEPs reviewed by OSEP in Montana did not include "outcome-based, coordinated activities" designed to provide movement to

post-school activities (OSERS, 2000e). In Alabama, IEPs did not contain community experiences or statements indicating that the IEP team had determined that services were not needed (OSERS, 1996a). IEPs in Alabama that indicated that transition services would not be addressed or provided by the public agency could have been acceptable if the IEP had included a notation that those services had been arranged for by parents under circumstances that made that option appropriate, but that relatively simple housekeeping matter was not done (*ibid*).

Related Demographics

The review of the Reports undertaken for this study show unequivocally that no state has yet succeeded in following all federal guidelines related to the delivery of special education services. Although all state education systems violate IDEA, there are demographic and regional differences in how (and to whom) those violations occur. The minority population that is the most prevalent in any given region, for example, is more likely to be overrepresented in

special education services, particularly in programs designed for the mildly mentally retarded or those identified with specific learning disabilities (U.S. Department of Education, 2000). In the Southwest it is the Native American population (e.g., Arizona, OSERS, 2000a) that is more likely to be overrepresented in these programs, while in the South it is more likely to be African Americans (e.g., Mississippi (OSERS, 2000d).

Other demographic criteria also appear to make a major difference in compliance issues. States with larger population densities are more consistently out of compliance, most notably California (OSERS, 1999a) and New Jersey (OSERS, 1999b). Of special interest are the cover letters for each of these states. Another major factor appears to be the number of students served per special educator. Only two states in the study, New Jersey and California, have been censured by OSEP for "long standing, serious noncompliance" (New Jersey (OSERS, 1999b); California (OSERS, 1999a). Each has population densities larger than all the other states reviewed by OSEP for the Reports included in this study. New Jersey had a population density of just

over 28 students with disabilities served per square mile during the 1998-99 school year, a total of 184,217 students ages 6 - 17 (U.S. Department of Education, 2000). Delaware, the one State Agency that received a Letter of Findings as opposed to a Report, served 13,944 students from a state population of 119,811 students for this same period in the same age range, just over eight students with disabilities per square mile (*ibid*). The student-to-teacher ratio in Delaware for that period was 10.7:1; the ratio in New Jersey was 13.9:1. In California, 542,168 students with disabilities were served during the 1998-99 school year (*ibid*). The ratio of student-to-teacher was 24.2:1.

CHAPTER FIVE

CALIFORNIA

California was one of two states reviewed (the other was New Jersey (OSERS, 1999b), that has been admonished for its "continued failure to ensure compliance" related to virtually every aspect of the delivery of special education and related services (OSERS, 1999a). The cover letter attached to the April 6, 1999, Report for the State of California stated that, "The State must take action to ensure that the State's long-standing, serious noncompliance is effectively and promptly corrected throughout the State" (*ibid*). There were violations noted in the area of general supervisory responsibility. The Report also noted that "there continues to be longstanding violations of the rights of children with disabilities in the State to a free appropriate public education, placement in the least restrictive environment, needed transitions services, and timely reevaluations" (OSERS, 1999a).

General Supervision

The Report noted "CDE's continuing failure to meet its general supervision responsibility" (OSERS, 1999a). The state is charged with implementing "complaint management and monitoring procedures that enable CDE to identify and promptly correct noncompliance" (*ibid*). OSEP has found that CDE is failing in its general supervision responsibility to resolve all complaints that "allege a violation of Part B of IDEA. CDE has also failed to ensure that all complaints are resolved within the 60-day timeline, or that an extension is granted only for specific exceptional circumstances." When CDE "does find noncompliance through its complaint management procedures, the noncompliance is not corrected" (*ibid*).

As evidence of CDE's failure to comply with its complaint management responsibilities, OSEP offered examples in its Report. One example was that of a complaint received on October 23, 1996 in which a decision was reached on December 27, 1996 (*ibid*). The decision itself was issued 66 days after the original complaint was received, a violation in itself (*ibid*).

But as of June 1998, the corrective action required had not been implemented (OSERS, 1999a). Rather, an internal memorandum to CDE dated October 21, 1997, from the district stated that the district "did not intend to comply with the corrective actions required" (*ibid*). The district's failure to comply with decisions reached through due process is indicative of a serious problem facing the CDE.

OSEP noted several "barriers" that limit CDE's ability to achieve compliance related to general supervision in California. One barrier noted by OSEP was that CDE claimed not to have sufficient funds to adequately staff its special education monitoring system (OSERS, 1999a). However, in the cover letter that accompanied the 1999 Report OSEP noted that in the "Fiscal Year 1998" (*sic*) California was authorized to set aside approximately 20.8 per cent (\$78,548,137) of its Federal Part B Grant award for "State level purposes" but retained "only 7.27 per cent of the grant" to do so (*ibid*). Those "state level purposes" included the monitoring of "the approximately 1000" districts to ensure compliance with Federal education

regulations (*ibid*). OSEP noted in the cover letter that CDE stated that it needed "16 full-time equivalents to effectively monitor special education compliance, but that it currently had only seven full-time equivalents" (*ibid*).

OSEP noted another serious barrier in California regarding its general supervisory responsibilities:

1. (T)he California Department of Education has no authority under State law to withhold *State (sic)* funds from school districts; and
2. although the California Department of Education *may (sic)* withhold *Part B Federal (sic)* funds from a school district, pursuant to a State Department of Finance policy a District from which Part B funds are withheld will receive additional funds, thus eviscerating any threat to withhold Part B Federal funds (OSERS, 1999a).

Free Appropriate Public Education

CDE did not ensure FAPE to its students with disabilities, according to the OSEP Report (*ibid*). It "failed to ensure that students with disabilities received all of the related services that they needed to benefit from special education, as determined by the IEP team" (*ibid*). In particular, OSEP noted that the California Department of Mental Health, "rather than the IEP team, had the authority under California State law to determine what, if any occupational and/or physical therapy services a student with a disability would receive in order to benefit from special education [and] similarly the California Department of Mental Health, rather than the IEP team, had the authority under California State law to determine what, if any, mental health services (e.g., psychological counseling) a student with a disability would receive in order to benefit from special education" (OSERS, 1999a). Leaving the decisions regarding these related services to an agency, rather than to the IEP team, violated the Federal mandates (*ibid*).

The provision of related services was found to be problematic in the Los Angeles Unified School District (LAUSD). Some students who had been determined to need psychological counseling were not receiving those services from County Mental Health because that agency determined they were not eligible or "the County Mental Health agency has terminated services . . . because their parents did not participate" (*ibid*). The situation was found to be similar in San Francisco Unified School District (SFUSD) (*ibid*). In the Long Beach Unified School District, OSEP "reviewed the files of 12 students identified as having severe emotional disturbance whose IEPs indicated that they were to receive counseling" (*ibid*). The District was unaware of whether any of the 12 was actually receiving those services (*ibid*). In San Diego, caseloads for school psychologists were "prohibitively large (approximately 500 students per counselor)" so "counseling services [were] . . . never written into a student's IEP" (*ibid*) which is a clear violation of the mandate that each *Individualized Education Plan* be written with the particular student in mind. (Emphasis added).

LAUSD was also out of compliance concerning the provision of related services other than psychological services. OSEP found that there were "110 students waiting for occupational therapy, 46 students waiting for physical therapy and 3450 students waiting for speech" (*ibid*). In SFUSD "10 students were waiting for occupational therapy, and 100 students were waiting for speech therapy" (*ibid*).

Another area OSEP noted as violating the tenets of FAPE concerned triennial reviews. IDEA'97 Part B regulations state that a review of an eligible student's placement and services must be conducted "if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years" (§300.536 & §300.534(b)). OSEP noted that for the period of July through December 1997 "there were 1340 students with overdue evaluations" (OSERS, 1999a). In San Francisco OSEP noted, there were "622 reevaluations that were 1-11 months overdue . . . and 273 evaluations that were more than a year overdue" (*ibid*). Mount Diablo Unified (MDUSD) School District had 138 students overdue for reevaluation during the time

of its review and San Diego Unified School (SDSU) District had 265 (*ibid*).

Least Restrictive Environment

According to the OSEP Report CDE:

failed to ensure that (a) children with disabilities were removed from the regular education environment only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; or (b) the placement for each child with a disability is based on his or her IEP" (OSERS, 1999a).

CDE also failed to ensure that "to the maximum extent appropriate, children with disabilities were educated with nondisabled children and participated with nondisabled children in extracurricular and nonacademic services and activities" (*ibid*). In LAUSD, for example, OSEP reviewed 38 IEPs. None of the IEPs "included a statement of the supplementary aids and services or special education services to be provided

in the regular education classroom" (*ibid*), a finding which was confirmed by "administrators, special education teachers, and regular education teachers [who] confirmed that the IEP team does not consider" any of these services (*ibid*).

SDUSD was offered as another example by OSEP (*ibid*). Among the LRE violations noted there were that (a) placement decisions were not based on students' IEPs; (b) special education instruction in regular classes was not available as a placement option for all students with disabilities; (c) the only placement option available for students with moderate to severe mental retardation was a separate class program; (d) students identified as seriously emotionally disturbed [were] served in a separate school" (*ibid*).

Transition Services

As mentioned earlier, IEPs for students age 14 or older must include a "statement of *needed transition services to be provided to the student* (emphasis in the original) which included instruction, community experiences, and the development of employment and

other post-school adult living objectives" or a "statement that the IEP team had determined that services [were] not needed in one or more of those areas and the basis upon which the determination was made, as required by §§300.346(b) and 300.18" (OSERS, 1999a). In LAUSD "none of the 21 IEPs of students, aged 16 or older, that OSEP reviewed included a statement of needed transition services" (OSERS, 1999a). OSEP further found that "although the IEPs included a page entitled "Individualized Transition Plan," neither this page or the other pages of the IEPs included required content" (*ibid*). The IEPs instead included information about "what the *student* likes to do and will do, but does not include any *transition services or linkages* to be provided *to the student*" (emphasis in the original) (*ibid*). Under the title "Long Range Plans for Education and Employment," for example, was written "[Student] doesn't know [his plans for postsecondary vocational training or competitive employment] but likes to work. Has been hired as a box boy at market - stacked groceries" (*ibid*). Similar discrepancies were noted for SDUSD, SFUSD, and MDUSD (*ibid*).

CDE has also failed to ensure that the notice given to parents of children with disabilities informed them that a purpose of the meeting would be to consider needed transition services, if appropriate (*ibid*). Notices did not include information regarding any agency that would be invited to send a representative to the meeting if that agency was likely to be responsible for providing or paying for transition services for the student (*ibid*). Furthermore, California has failed to provide a means to compel local districts and other agencies to comply with Federal and state regulations (OSERS, 1999a Cover Letter).

CHAPTER SIX

ADDRESSING CALIFORNIA'S

"SERIOUS, LONGSTANDING,

NONCOMPLIANCE"

California has failed to comply with Federal requirements regarding the education of students with disabilities in much the same way as the other states. What is notable about the lack of compliance regarding special education and related services in California as compared to other states is its "serious, longstanding noncompliance" (OSERS, 1999a Cover Letter). Where California has differed from other states regarding compliance with Federal requirements under IDEA is in the pervasive nature of that noncompliance. Lack of compliance of the basic tenets of IDEA has appeared overwhelming in California, according to the OSEP Report, and the CDE has been unable to compel districts and LEAs to take whatever measures are necessary to correct them (*ibid*). It is not, then, more likely that any one district in California will be more out of compliance with IDEA than any one district in any of

the other states. What is different is the pervasive and "longstanding" nature of that noncompliance.

What, then, can be done, to impel California forward towards more significant compliance with Federal mandates? As was noted in the OSEP Cover Letter of the 1999 Report, California lacked legislation that would enable the CDE to withhold sufficient funds to be of financial significance to districts who refused to comply with Federal or state mandates, or the decisions made through due process hearings (OSERS). A recent California Senate Bill (SB 1843) has changed that. CDE and the State of California have initiated legislation designed to ensure that districts and other LEAs will be compelled to comply with hearing decisions and other compliance concerns. The California special education laws have been amended as of January 2001 to include California SB 1843, Article 8 §56845, which:

provides authority to the Superintendent of Public Instruction to withhold, in whole or in part, state funds or Federal funds
(emphasis added) allocated under the IDEA from a district, special education local plan

area, or county office after reasonable notice and opportunity for a hearing if the superintendent finds either of the following:

The district, special education local plan area, or county office failed to comply substantially with a provision of state law, Federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs which results in a failure to comply substantially with corrective action orders issued by the department resulting from monitoring findings or complaint investigations.

The district, special education local plan area, or county office failed to implement the decision of a due process hearing officer based on noncompliance with provisions of this part, its implementing regulations, provisions of the IDEA, or its implementing regulations, which noncompliance results in the denial of, or impedes the

delivery of, a free and appropriate public education for an individual with exceptional needs (CA Department of Education, 2001).

Subdivision (c) of that same Section declares that:

state funds may not be allocated to offset any Federal funding intended for individuals with exceptional needs, as defined in Section 56026, and withheld from a local educational agency due to the agency's noncompliance with state or Federal law (emphasis added) (CA Department of Education, 2001). (See Appendix C for complete text)

In this area, at least, California has made a significant step forward by enacting legislation which will make it possible for CDE to negatively impact the financial resources of those districts or LEAs who refuse to comply with due process decisions. The potential ramifications of this new legislation are significant. In one example cited by OSEP a school district in California received a complaint on October 23, 1996, stating that the parents were requesting a

neuropsychological examination for their child. A decision regarding that complaint reached on December 27, 1996, was decided in favor of the parent and the school district was ordered to "arrange for a neuropsychological evaluation within 20 days" (OSERS, 1999a) of receiving that decision. The OSEP Report stated that an "internal CDE memorandum" dated October 21, 1997, "noted that the district did not intend to comply" (*ibid*) with the decision, and that as of June 1998, the neuropsychological evaluation had not yet been arranged. Prior to SB 1843, CDE had little clout with which to compel compliance. Now, however, funding can be withheld from such a district until reasonable efforts are made to comply (CA Department of Education, 2001). Many districts and LEAs are likely to face severe financial difficulties if administrators and educators within those LEAs remain unaware of the changes in California education laws. Now that the state legislature has put some proverbial "teeth" into the laws regarding funding, districts and other LEAs must develop and implement programs that will bring

their local areas into substantial compliance with state and Federal special education laws.

Innovative Programs from Other States

A substantial resource that may be used as a guide for developing programs that can successfully address compliance issues in California may actually be the OSEP Monitoring Reports from other states. In addition to noting areas in which states have been out of compliance with IDEA Part B regulations, OSEP has also cited programs that have been successfully addressed IDEA issues. An example of a Report that included comments on innovative programs designed to address compliance issues was the Montana Report.

The OSEP Report for Montana emphasized three areas of strength in the delivery of special education services by the Montana Office of Public Instruction (OPI) that might serve as a model for California (OSERS, 2000a). Montana, a relatively sparsely populated state, provided special education services to 16,271 students with disabilities during the 1998-99 school year (U.S. Department of Education, 2000). OSEP

identified several programs that have served to increase compliance with IDEA in that state: (1) a program designed to create "a positive working relationship with parents;" (2) "a comprehensive staff development project (Montana Behavioral Initiative) to meet the behavioral and social needs of students;" and (3) "Training for Inclusive Education (TIE) Project that provides training opportunities to assist school districts in inclusive education practices" (OSERS, 2000e).

The Montana Report stated that "parental involvement has long been recognized as an important indicator of a school's success and parent involvement has positive effects on children's attitudes and social behavior" (*ibid*). To this end, OPI has entered into collaboration with a parent support group, "Parents Let's Unite for Kids," to provide "parent training activities and dissemination of parent training materials and guides" (*ibid*). Parent representatives were made active participants on task forces, in workshops and inservice training activities, and were included in committees that develop technical

assistance manuals. Brochures and other materials that deal with parental rights, mediation, complaints, due process, and other areas of concern to parents of students with disabilities were written in language that was easy to understand (*ibid*). Surveys were regularly distributed to parents of children with disabilities. The results of the surveys, which were confirmed by OSEP interviews and observations, demonstrated just how successful this program has been.

One recent survey asked respondents (parents and educators across the state) to rate the statement: "Parents are actively involved throughout the special education process for their child." According to the Montana Report, "The average score on a three-point scale for parents was 2.25 and the average score for educators was 2.52" (OSERS, 2000e). Ninety-seven percent of parents participated in both IEP and Student Study Team (SST) meetings, and felt "valued as a member of the IEP, having the opportunity to provide input into IEP development, being able to communicate with their child's teacher, and being kept informed of the progress their child is making" (*ibid*). This was due,

in part, to the fact that team members went to "extraordinary lengths" (*ibid*) to ensure parent participation, including providing transportation to parents and refusing to hold meetings without them.

The second program, the Montana Behavioral Initiative, provided staff development and training designed to "improve the capacities of schools and communities to meet the diverse and increasingly complex social, emotional and behavioral needs of students" (*ibid*). The aim of the program was to "ensure that each student leaves public education and enters the community with social competence appropriate to the individual regardless of ability or disability" (*ibid*). More than one hundred districts have participated in this program.

The third program, Training for Inclusive Education (TIE), provided training for school districts in the area of "initiating and implementing inclusive education practices" (*ibid*). Training was delivered to teams that were required to include (1) an administrator; (2) a general educator; (3) a special educator; (4) a parent of a child with a disability;

(5) a paraprofessional or aide; and (6) a related service person" (*ibid*). Teams of 6 or more have been trained using this program from more than 60 districts across the state. Because this program is so unique, the passage contained in the Montana Report regarding its curriculum is reprinted here in its entirety:

Key concepts developed during the training include: team-building and leadership training; strategies for adapting the curriculum to meet the needs of a diverse student population; appropriate use of the general curriculum and classroom activities to meet IEP goals for individual students; ways of reallocating time and money resources in order to better serve students in the general education setting; techniques and models for collaborating with parents, professionals and paraprofessionals; models and roles used in the practice of team-teaching; principles of working with peer tutors and circles of support; and

communication skills and issues of conflict resolution (OSERS, 2000e).

Nebraska, like Montana, is a sparsely populated state. The Nebraska Department of Education (NDE) oversaw the delivery of special education services to a total of 13,187 students with disabilities during the 1998-99 school year (U.S. DOE Congressional Report, 2000). The Nebraska Report (OSERS, 2000f) offered commendations for two programs implemented by the NDE which might serve as models for delivery of the State of California and its LEAs, the Nebraska Diagnostic Resource Center (NDRC) and the Teacher Support Cadre (*ibid*). Nebraska also sponsored an annual "Parents Encouraging Parents" conference as a way to disseminate information regarding delivery of special education and related services and parents' rights, and offered an opportunity for parents of students with disabilities to share ideas and information with other parents about "parenting and educating a child with a disability" (*ibid*).

The NDRC was implemented under the auspices of the NDE to assist and support "public agencies in the areas

of assessment, materials/resources and inservice training" (OSERS, 2000f). The NDRC provided a full spectrum of interdisciplinary evaluation services, and also served as a resource for consultation regarding students with head injuries, behavioral and emotional problems, and other areas of special need (*ibid*).

The Cadre was defined as a "special education teacher's support system" which operated under a mandate to "provide instructional support and assistance primarily to teachers of children with sensory impairments and other low incidence populations throughout the State" (*ibid*). Acting as consultants, the members of the cadre collaborated with on-site personnel in areas such as "instructional strategies, modification of curriculum materials, development of behavior management programs, and provision of training for teachers, paraeducators, and parents" (*ibid*).

Large, sparsely populated Midwestern states were not the only states to develop meaningful programs that increase the chances that states will be in compliance with IDEA mandates. A small, Northeastern state, (Vermont, OSERS, 1996e) can also provide a model for a

program that establishes a way to comply with IDEA expectations. Vermont provided special education services for 10,834 students during the 1998-99 school year, with a student-to-teacher ratio of 16.1:1. After noticing an increase in the number of students exhibiting emotional and behavioral disorders, the Vermont Department of Education (VDE) established the Building Effective Supports for Teachers (BEST) program (*ibid*).

The goals of BEST were to "increase the ability of schools to support students with emotional and behavioral challenges, increase educational options and resources, train school staff, and collaborate with families and other agencies" (OSERS, 1996e). The team, consisting of "managers from a variety of agencies, agency staff, and parent representatives, [was mandated to meet] twice a month to plan and problem-solve both individual cases and systemic issues" (*ibid*).

Montana, Nebraska and Vermont were not the only state education agencies that had developed programs that assisted the states and LEAs in complying more substantially with Federal regulations. In each Report,

other than that of California, OSEP provided examples of initiatives and strengths that enhanced the delivery of special education and related services to the students served by those agencies. A partial list of initiatives and programs developed and implemented by state agencies to address issues of compliance with Federal Part B regulations regarding the delivery of special education and related services has been appended to this paper (Appendix D).

Applying the Reports to California

States large in geography and small in population, such as Montana and Nebraska, have instituted programs that might serve as models for California. California, like Montana and Nebraska, must find ways to pool limited resources and use them to maximum advantage. All three states have a high student-to-teacher ratio (Montana, 22.1; Nebraska, 19.9:1; California, 24:2:1). Innovative programs that encourage collaboration between special educators and their regular education colleagues have been used as a way to maximize those resources.

These programs might serve as models for smaller, less populated districts in California such as those in Inyo and Mono Counties. Inyo County, for example, had a total of 3,350 students in seven districts (2 elementary, 1 high, 4 unified). Of the total number of students, only 396 were identified as students eligible for special education services (California Department of Education, 2001b). Few students were identified with low incident disabilities. Only four of those students, for example, were identified as being deaf or hard of hearing while eight were identified as having multiple disabilities and four were identified with autism (*ibid*). Mono had a total of 2,070 students in two unified districts with 328 identified as being eligible for services (*ibid*). In that county, two students were identified as hard of hearing, four as being visually impaired, and one identified as having multiple disabilities. The development of countywide programs such as the NDRC and the Cadre might be a way for the districts to pool their resources and provide more services for less money in both counties. If programs could be developed that served two or more less

populated counties in relatively close geographic proximity, the savings to the individual counties and the improvement in the quality of services provided to the students might be tremendous.

A program similar to the TIE developed and implemented in Montana could do much to improve both the quality of IEPs and the participation of parents in the IEP process in districts both large and small. Staff development and training, such as that provided by the Montana Behavioral Initiative, would benefit any district in which both students identified as having emotional disturbance and students identified as "at-risk" were educated.

Montana offered a combination of programs (TIE and collaboration with Parent's Let's Unite for Kids) that kept students with special needs, for the most part, in their own communities and kept the parents of these students actively involved in the education of their children. In a large, sparsely populated state, the benefits of training teams of individuals to provide services to students with disabilities in regular education classrooms served several purposes. It

provided the opportunity for fewer educators to reach more students. It provided many students with disabilities the opportunity to participate in a regular education setting with their peers. It also staved off the necessity of financing sites for segregated classrooms or off-site locations to serve students with disabilities or the necessity of transporting students longer distances to receive their FAPE.

California's LEAs and the students served by them would benefit by implementing programs similar to the ones cited above. Parents would benefit, since providing special education services to students in their home districts would mean parents would not have to travel as far to participate in the planning of their children's educational goals. Parents in the more populated areas of California have shorter distances to travel in order to be present for IEPs, SSTs and other matters having to do with their children's education, although the distance can still seem quite large when the parents do not have a personal vehicle in which to travel. Parents in smaller, less populated counties

would spend less time traveling if their children were schooled in their home districts under a program similar to the ones offered in Montana. The pooling of resources to provide maximum benefit with limited outlay would also benefit the districts in California, both large and small, where finding money that can be allocated to implement programs needed to comply with state and Federal requirements can be problematic.

Nebraska's implementation of both the NDRC and the Cadre has also provided the model for a program that uses limited resources to provide better services to individuals with disabilities. Service in these two states would be much more limited in focus and scope if these programs had not been instituted. Service to students with disabilities in California would be much broader in scope if similar programs were developed here.

The BEST program in Vermont, like those cited in Montana and Nebraska, can illustrate how a state agency provided a level of support to students, parents, educators, paraprofessionals, and administrators, beyond which each district could do alone. In Los

Angeles County, where 7,284 of the 177,761 students deemed eligible for special education services were identified as students with emotional disturbance (California Department of Education, 2001b), a program similar to the BEST program might increase the chances of complying with Federal mandates regarding students identified with that disability.

Self-Monitoring

Although it is important to remember that each special educator has the responsibility to understand and follow the mandates of Federal regulations regarding IDEA, it is not the responsibility of the special educator alone. General education teachers also play a part in the consideration of a student for placement in a special education program. Documentation of strategies that have been implemented to address student needs in the general education environment *prior* to referral for assessment by the special education team must be clearly delineated. (Emphasis added). The special educator, related services staff, and the Student Study Team members must all have a

clear picture of student performance under a variety of circumstances before being able to offer a legal determination of a student's eligibility for special education and related services.

This can prove a daunting task as there is so much to remember when assessing a student, when determining student eligibility, and when presenting assessment findings to an IEP team to consider a student's placement. Even if a special educator has a firm grasp on the legal issues involved errors and omissions can be made unless the educator has a clear system in place as a form of self-monitoring. With that in mind, the author has included a supplement to this paper that provides a number of checklists to facilitate the record-keeping and timeline issues with which every special educator must deal. The supplement, A Special Educator's "Quick and Dirty" Housekeeping Handbook (Handbook), (Kaspar & Wofsy, 2002) was developed by the author as a collaborative effort with LB Wofsy, a resource specialist with a firm grasp of legal issues and a clear understanding of the significance of documentation in the special education

process. The Handbook includes checklists and self-monitoring suggestions for both the special educator and the regular education teacher.

Section I of the Handbook is a general guideline for assessment and observations of students who are being considered for special education services or are already receiving those services. The Academic Assessment portion asks special educators to consider student work samples as a resource in determining student performance, for example. It also reminds the special educator to be mindful of any interventions that have been attempted in the general education classroom and to assess whether or not those interventions have been successful in dealing with potential student deficits. It also offers guidelines on accurate documenting of student behavior that may negatively impact learning. Suggestions include reminding the observer to "describe the student's observable behaviors NOT how you believe the student feels or the reasons for the student's behavior" (Kaspar & Wofsy, 2002).

Section II of the Handbook is an outline of the process by which a student is considered for placement in a special education program, beginning before a student is recommended for consideration by the Student Study Team and continuing through placement considerations for a student who has been determined eligible for special education and related services. Emphasis is placed on reminding the general education teacher that alternative strategies must have been tried in the general education setting first. This section also reminds anyone referring a student to the Student Study Team that both positive and negative attributes of the student must be articulated, interventions must be employed, and the success (or lack of success) of the student must be documented throughout the process.

Section III, "Pre-Student Study Team (SST) Checklist" is just that - a checklist designed for general education teachers to document a student's competencies and deficits in language, reading, mathematics, study skills, behavior, visual perception, fine and gross motor skills, and overall health. It

also provides space to document administrative interventions (e.g., behavioral contracts) that have been attempted, regular education intervention strategies, and any medical or parental interventions that may have been attempted. Section IV is identical in structure to Section III, but has been designed for use once the Student Study Team has already become involved.

Once the Student Study Team has determined that, despite interventions in the general classroom, the student should be recommended for consideration for placement in a special education program, Section V, the "Pre-Assessment Questionnaire" can be used by the general educator as tool to legitimately justify to the special education team the reason(s) why the student should be considered for assessment. The "Resource Specialist's Program Questionnaire," presented in Section VI is a second instrument that can be used to articulate what deficits the student being considered for special education services manifests and how they are negatively impacting the student's legal right to an appropriate public education.

Sections VII, VIII, IX, and X have been designed to facilitate the special educator once a student has been determined eligible for special education services. Section VII is a "Special Education Services Checklist" which offers the user a form on which to document the student's name, birthdate, the date of the IEP, the date the home language survey was completed, the date(s) parent and staff were informed by written notice that an IEP has been scheduled, and other pertinent information. Section VIII is a one page prompt to remind the special educator of important timeline considerations. It includes information about the number of days within which requests for assessment from parents have to be completed, how long prior to an IEP parents must be notified, and when the reevaluation of a student has to be conducted for the triennial review (among other things).

The final two sections, IX and X, deal specifically with the IEP and the IEP meeting. Section IX presents an outline of the important elements of that must be presented during an IEP meeting. Section X is a page-by-page "walk-through" of the IEP itself.

CHAPTER SEVEN

SUMMARY AND CONCLUSION

Federal standards regarding special education are a miasma of regulations, legislation, case law, and other factors that make it difficult for an educational agency to render services. Appropriate services to students with disabilities must be delivered through an IEP that is faithful to FAPE, located in the appropriate LRE, and mapped out by team members who have correctly crossed all their proverbial "t"s and dotted all their proverbial "i"s. A review of the literature has shown that even the circuit courts cannot agree on the best formula with which to judge the validity of an IEP or its implementation. The State Monitoring Reports presented here may serve as a resource to which program developers may turn as they strive to develop and implement successful programs in California. The Nebraska Diagnostic Resource Center (OSERS, 2000f) is one example of a program that might serve as a viable model to address the related services needs of some of the districts in California's less

populated counties, such as Inyo and Mono. The BEST program, commended in the Report for Vermont (OSERS, 1996e) provides an excellent model for the development of a program that addresses the needs of California's large student population that has been identified as having emotional disturbance (California Department of Education, 2001b).

The Office of Special Education Programs monitors state agencies to determine how well the mandates of IDEA are followed. Not one of the 33 states for which the Reports were examined for this review was in total compliance with any single major component of special education services. There were, however, some states that came closer to compliance than did others. One obvious example of the latter was California, a state that was admonished for its "continuing failure" to correct substantial flaws in the delivery of special education services to its students. Less densely populated states, with more limited resources, actually seemed to "do more with less", developing and implementing programs that are designed to deliver more

appropriate services to the students within their states.

Coming into substantial compliance with IDEA regulations appears to be particularly difficult for LEAs operating in large, densely populated urban settings. California, the state with the largest number of school age children (ages 6-21) was the most severely censured of all the states reviewed. OSEP's 1998 Findings noted California's "continued failure" to "identify all serious systemic noncompliance" which has a "negative impact on services to children with disabilities and fails to ensure that the noncompliance that it does identify is corrected. As a result, serious systemic noncompliance remains unidentified and/or uncorrected in a number of school districts, including the State's largest school districts" (OSERS, 1999a).

A new California Senate Bill (SB 1843 §56845) has been enacted to improve the likelihood that districts, LEAs and other special education services providers will be more diligent in complying with State and Federal special education law (See Appendix C). Merely

enacting legislation, however, is not enough to ensure that California will come into substantial compliance with IDEA '97 regulations. Individuals determined to positively affect the educational outcomes of students with disabilities receiving special education and related services in California, must first understand how, and why, California has had more difficulty than other states in achieving substantial compliance with Federal regulations related to delivery of special education and related services. The California Department of Education and its local education agencies must then strive to develop and implement programs that will bring them into substantial compliance with both Federal and state regulations regarding the delivery of special education and related services to students with disabilities within their jurisdictions. It is possible that the Reports examined here may serve as a valuable resource to individuals within the districts, LEAs, and at the State level as programs and initiatives are designed and implemented in the State. It is equally important, however, that each individual who provides special education and

related services self-monitors the programs of students who are eligible for services in the districts and other LEAs under whose auspices they receive those services. It is for this reason that the supplemental Handbook has been included with this paper. It is the intent of the author that this paper and the additional supplement will serve as a resource guide to individuals charged with providing FAPE in the appropriate LRE under the auspices of a legal and clearly written IEP to all students deemed eligible for special education and related services.

APPENDIX A

CASE LAW

SPECIAL EDUCATION CASE LAW

Procedural Violations of IDEA*

Parent Participation

School district failed to provide adequate notice so that parent could participate in EIP process
Allamakee School District 24 IDELR 516

Parents not informed of or allowed to inspect evaluation results
Rebecca S. v. Clarke School District, 22 IDELR 884

Parents not informed of their procedural rights under IDEA
Azle ISD (1997), 26 IDELR 931

Parents were not equal partners in developing IEP
Palatine School District 29 IDELR 258
Lincoln Schools. 25 IDELR 92
N. Rose-Wolcott School District., 26 IDELR 325
In re Child w/Disabilities: 23 IDELR 471

School District Reneged on Oral Agreement with Parents to Provide Lovaas Treatment
Lincoln Schools, 25 IDELR 92

Evaluation

Delay between evaluation and IEP (IDEA requires 30 days or less)
Cobb County Schools, 24 IDELR 875
Delaware County IU v. Martin K, 20 IDELR 363

School district failed to consider evaluation data provided by parents
Azle ISD, 26 IDELR 931
Taunton Public Schools, 27 IDELR 108
Mr X v. New York State DOE, 26 IDELR 854

* Adapted from Thomas & Rapport, 1998.

Evaluation did not address all areas of needs
(e.g., behavior, functional skills, communication,
extended school year services, socialization)
Columbia & Portland SD 24 IDELR 98
Long Beach School District 29 IDELR 541
Redlands School District, 28 IDELR 1256
Peninsula School District, 27 IDELR 381
N. Rose-Wolcott SD, 26 IDELR 325

School district failed to conduct evaluation prior
to revising IEP
Allamakee School District, 24 KDELR 516

Individual with knowledge of student's evaluation
not present at IEP team meeting
Cobb County Schools, 24 IDELR 875

School district's evaluator lacked qualifications
and knowledge to assess students with autism
Cobb County Schools 24 IDELR 875
Ann Arbor Public Schools, 24 IDELR 621
ISD #318, 24 IDELR 1096
Long Beach School District, 29 IDELR 541
Clark County School District, 28 IDELR 804
ISD #281, 28 IDELR 270
Peninsula School District, 27 IDELR 381

IEP

School district failed to include a representative
of the LEA on IEP team
Cobb County Schools, 24 IDELR 875

School district failed to revise IEP following new
evaluation
Cobb County Schools, 24 IDELR 875

IEP lacked appropriate goals and short-term
objectives (vague, general, not measurable)
Columbia & Portland SD, 24 IDELR 98
Old Adobe Union SD, 27 IDELR 70

IEP goals lacked criteria for mastery
Lexington #1, 29 IDELR 808

IEP lacked present levels of educational performance

Columbia & Portland SD, 24 IDELR 98

Peninsula School District, 27 IDELR 381

Taunton Public Schools, 27 IDELR 108

IEP did not specify special education services or the length and frequency of services

Ann Arbor Public Schools, 24 IDELR 621

San Diego School District, 28 IDELR 244

Taunton Public Schools, 27 IDELR 108

IEP Student did not receive all services specified in

Azle ISD, 26 IDELR 1182

IEP not based on student's individual needs (all students in program received same services)

Lexington #1, 27 IDELR 1182

San Diego School District, 28 IDELR 244

IEP completed but not implemented by beginning of school year

Delaware County IU v. Martin K., 20 IDELR 363

IEP did not address all areas of need identified in evaluation

Clark County School District, 28 IDELR 804

Peninsula School District, 27 IDELR 381

In Re: G. 27 IDELR 451

No annual review conducted

Delaware County IU v. Martin K., 20 IDELR 363

Placement

School district determined placement of student prior to developing goals and objectives

Lexington #1, 27 IDELR 1182

B. N. Rose-Wolcott SD, 26 IDELR 325

School district did not place student in appropriate program because program had no openings

Redlands School District, 29 IDELR 1256

Qualifications Of Personnel

School district's teachers lacked qualifications to teach students with autism

Ann Arbor Public School, 24 IDELR 621

Long Beach School District, 29 IDELR 541

School district provided aide to conduct 1:1 training applied behavioral analysis (ABA) who lacked adequate knowledge of ABA

Long Beach School District, 29 IDELR 541

Mr. X v. New York State DOE, 26 IDELR 854

Union School District v. Smith, 1994

School district provided speech/language therapist who had no knowledge of working with students with autism

Long Beach School District, 29 IDELR 541

APPENDIX B
PART B REGULATIONS

APPENDIX B

(Applicable Sections of IDEA 1997, Part B Regulations)

PART 300--ASSISTANCE TO STATES FOR THE EDUCATION OF

CHILDREN WITH DISABILITIES

Free Appropriate Public Education

\$300.300 Provision of FAPE.

(a) General.

(1) Subject to paragraphs (b) and (c) of this section and §300.311, each State receiving assistance under this part shall ensure that FAPE is available to all children with disabilities, aged 3 through 21, residing in the State, including children with disabilities who have been suspended or expelled from school.

(2) As a part of its obligation under paragraph (a) (1) of this section, each State must ensure that the requirements of §300.125 (to identify, locate, and evaluate all children with disabilities) are implemented by public agencies throughout the State.

(3) (i) The services provided to the child under this part address all of the child's identified special education and related services needs described in paragraph (a) of this section.

(ii) The services and placement needed by each child with a disability to receive FAPE must be based on the child's unique needs and not on the child's disability.

(c) Children aged 3 through 21 on Indian reservations. With the exception of children identified in §300.715(b) and (c), the SEA shall ensure that all of the requirements of Part B of the Act are implemented for all children with disabilities aged 3 through 21 on reservations.

(Authority: 20 U.S.C. 1412(a)(1), 1411(i)(1)(C), S. Rep. No. 94-168, p. 19 (1975))

§300.301 FAPE—methods and payments.

(c) Consistent with §§300.342(b)(2) and 300.343(b), the State must ensure that there is no delay in implementing a child's IEP, including any case in which the payment source

for providing or paying for special education and related

services to the child is being determined.

(Authority: 20 U.S.C. 1401(8), 1412(a)(1))

§300.302 Residential placement.

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child.

(Authority: 20 U.S.C. 1412(a)(1), 1412(a)(10)(B))

§300.304 Full educational opportunity goal.

Each SEA shall ensure that each public agency establishes and implements a goal of providing full educational opportunity to all children with disabilities in the area served by the public agency.

(Authority: 20 U.S.C. 1412(a)(2))

§300.305 Program options.

Each public agency shall take steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

(Authority: 20 U.S.C. 1412(a)(2), 1413(a)(1))

§300.306 Nonacademic services.

(a) Each public agency shall take steps to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with

disabilities an equal opportunity for participation in those services and activities.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

(Authority: 20 U.S.C. 1412(a)(1))

§300.307 Physical education.

(a) General. Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE.

(b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless--

(1) The child is enrolled full time in a separate facility; or

(2) The child needs specially designed physical education, as prescribed in the child's IEP.

(c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child shall provide the services directly or make arrangements for those services to be provided through other public or private programs.

(d) Education in separate facilities. The public agency responsible for the education of a child with a disability who is enrolled in a separate facility shall ensure that the child receives appropriate physical education services in compliance with paragraphs (a) and (c) of this section.

(Authority: 20 U.S.C. 1412(a)(25), 1412(a)(5)(A))

§300.308 Assistive technology.

(a) Each public agency shall ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §§300.5-300.6, are made available to a child with a disability if required as a part of the child's -

- (1) Special education under §300.26;
- (2) Related services under §300.24; or
- (3) Supplementary aids and services under §§300.28 and 300.550(b)(2).

(b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices in order to receive FAPE.

(Authority: 20 U.S.C. 1412(a)(12)(B)(i))

§300.309 Extended school year services.

(a) General.

(1) Each public agency shall ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.

(2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.340-300.350, that the services are necessary for the provision of FAPE to the child.

(3) In implementing the requirements of this section, a public agency may not--

(i) Limit extended school year services to particular categories of disability; or

(ii) Unilaterally limit the type, amount, or duration of those services.

(b) Definition. As used in this section, the term extended school year services means special education and related services that--

- (1) Are provided to a child with a disability--
 - (i) Beyond the normal school year of the public agency;
 - (ii) In accordance with the child's IEP; and
 - (iii) At no cost to the parents of the child; and
 - (2) Meet the standards of the SEA.
- (Authority: 20 U.S.C. 1412(a)(1))

§300.311 FAPE requirements for students with disabilities in adult prisons.

(a) Exception to FAPE for certain students. Except as provided in §300.122(a)(2)(ii), the obligation to make FAPE available to all children with disabilities does not apply with respect to students aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility--

- (1) Were not actually identified as being a child with a disability under §300.7; and

- (2) Did not have an IEP under Part B of the Act.

(b) Requirements that do not apply. The following requirements do not apply to students with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

- (1) The requirements contained in §300.138 and §300.347(a)(5)(i) (relating to participation of children with disabilities in general assessments).

- (2) The requirements in §300.347(b) (relating to transition planning and transition services), with respect to the students whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(c) Modifications of IEP or placement.

(1) Subject to paragraph (c)(2) of this section, the IEP team of a student with a disability, who is convicted as an adult under State law and incarcerated in an adult prison, may modify the student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(2) The requirements of §§300.340(a) and 300.347(a) relating to IEPs, and 300.550(b) relating to LRE, do not apply with respect to the modifications described in paragraph (c)(1) of this section.

(Authority: 20 U.S.C. 1412(a)(1), 1414(d)(6))

§300.312 Children with disabilities in public charter schools.

(a) Children with disabilities who attend public charter schools and their parents retain all rights under this part.

(b) If the public charter school is an LEA, consistent with §300.17, that receives funding under §§300.711-300.714, that charter school is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity.

(c) If the public charter school is a school of an LEA that receives funding under §§300.711-300.714 and includes other public schools—

(1) The LEA is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity; and

(2) The LEA must meet the requirements of §300.241.

(d)(1) If the public charter school is not an LEA receiving funding under §§300.711-300.714, or a school that is part of an LEA receiving funding under §§300.711-300.714, the SEA is responsible for ensuring that the requirements of this part are met.

(2) Paragraph (d)(1) of this section does not preclude a State from assigning initial responsibility for ensuring the requirements of this part are met to another entity; however, the SEA must maintain the

ultimate responsibility for ensuring compliance with this part, consistent with §300.600.

(Authority: 20 U.S.C. 1413(a)(5))

§300.320 Initial evaluations.

(a) Each public agency shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services under Part B of the Act—

(1) To determine if the child is a "child with a disability" under §300.7; and

(2) To determine the educational needs of the child.

(b) In implementing the requirements of paragraph (a) of this section, the public agency shall ensure that—

(1) The evaluation is conducted in accordance with the procedures described in §§300.530-300.535; and

(2) The results of the evaluation are used by the child's IEP team in meeting the requirements of §§300.340-300.350.

(Authority: 20 U.S.C. 1414(a), (b), and (c))

§300.321 Reevaluations.

Each public agency shall ensure that—

(a) A reevaluation of each child with a disability is conducted in accordance with §300.536; and

(b) The results of any reevaluations are addressed by the child's IEP team under §§300.340-300.349 in reviewing and, as appropriate, revising the child's IEP.

(Authority: 20 U.S.C. 1414(a)(2))

Individualized Education Programs

§300.340 Definitions related to IEPs

(a) Individualized education program. As used in this part, the term individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.341-300.350.

(b) Participating agency. As used in §300.348, participating agency means a State or local agency, other than the public agency responsible for a student's education, that is financially and legally responsible for providing transition services to the student.

(Authority: 20 U.S.C. 1401(11), 1412(a)(10)(B))

§300.341 Responsibility of SEA and other public agencies for IEPs.

(a) The SEA shall ensure that each public agency—

(1) Except as provided in §§300.450-300.462, develops and implements an IEP for each child with a disability served by that agency; and

(2) Ensures that an IEP is developed and implemented for each eligible child placed in or referred to a private school or facility by the public agency.

(b) Paragraph (a) of this section applies to—

(1) The SEA, if it is involved in providing direct services to children with disabilities, in accordance with §300.370(a) and (b)(1); and

(2) Except as provided in §300.600(d), the other public agencies described in §300.2, including LEAs and other State agencies that provide special education and related services either directly, by contract, or through other arrangements.

(Authority: 20 U.S.C. 1412(a)(4), (a)(10)(B))

§300.342 When IEPs must be in effect.

(a) General. At the beginning of each school year, each public agency shall have an IEP in effect for each child with a disability within its jurisdiction.

(b) Implementation of IEPs. Each public agency shall ensure that—

(1) An IEP—

(i) Is in effect before special education and related services are provided to an eligible child under this part; and

(ii) Is implemented as soon as possible following the meetings described under §300.343;

(2) The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and

(3) Each teacher and provider described in paragraph (b)(2) of this section is informed of—

(i) His or her specific responsibilities related to implementing the child's IEP; and

(ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

(d) Effective date for new requirements. All IEPs developed, reviewed, or revised on or after July 1, 1998 must meet the requirements of §§300.340-300.350.

(Authority: 20 U.S.C. 1414(d)(2)(A) and (B), Pub. L. 105-17, sec. 201(a)(2)(A), (C))

§300.343 IEP meetings.

(a) General. Each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability (or, if consistent with §300.342(c), an IFSP).

(b) Initial IEPs; provision of services. (1) Each public agency shall ensure that within a reasonable

period of time following the agency's receipt of parent consent to an initial evaluation of a child--

(i) The child is evaluated; and

(ii) If determined eligible under this part, special education and related services are made available to the child in accordance with an IEP.

(2) In meeting the requirement in paragraph (b)(1) of this section, a meeting to develop an IEP for the child must be conducted within 30-days of a determination that the child needs special education and related services.

(c) Review and revision of IEPs. Each public agency shall ensure that the IEP team--

(1) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

(2) Revises the IEP as appropriate to address --

(i) Any lack of expected progress toward the annual goals described in §300.347(a), and in the general curriculum, if appropriate;

(ii) The results of any reevaluation conducted under §300.536;

(iii) Information about the child provided to, or by, the

parents, as described in §300.533(a)(1);

(iv) The child's anticipated needs; or

(v) Other matters.

(Authority: 20 U.S.C. 1413(a)(1), 1414(d)(4)(A))

§300.344 IEP team.

(a) General. The public agency shall ensure that the IEP team for each child with a disability includes--

(1) The parents of the child;

(2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

(3) At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;

(4) A representative of the public agency who -

(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(ii) Is knowledgeable about the general curriculum; and

(iii) Is knowledgeable about the availability of resources of the public agency;

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (6) of this section;

(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) If appropriate, the child.

(b) Transition services participants.

(1) Under paragraph

(a)(7) of this section, the public agency shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of-

(i) The student's transition services needs under §300.347(b)(1); or

(ii) The needed transition services for the student under §300.347(b)(2); or

(iii) Both.

(2) If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered.

(3)(i) In implementing the requirements of §300.347(b)(2), the public agency also shall invite a representative of any other agency that is likely to be

responsible for providing or paying for transition services.

(ii) If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain participation of the other agency in the planning of any transition services.

(c) Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section shall be made by the party (parents or public agency) who invited the individual to be a member of the IEP.

(d) Designating a public agency representative. A public agency may designate another public agency member of the IEP team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.

(Authority: 20 U.S.C. 1401(30), 1414(d)(1)(A)(7), (B))

§300.345 Parent participation.

(a) Public agency responsibility-general. Each public agency shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including-

(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

(b) Information provided to parents. (1) The notice required under paragraph (a)(1) of this section must-

(i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and

(ii) Inform the parents of the provisions in §300.344(a)(6) and (c) (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child).

- (2) For a student with a disability beginning at age 14, or younger, if appropriate, the notice must also-
- (i) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student required in §300.347(b)(1); and
 - (ii) Indicate that the agency will invite the student.
- (3) For a student with a disability beginning at age 16, or younger, if appropriate, the notice must-
- (i) Indicate that a purpose of the meeting is the consideration of needed transition services for the student required in §300.347(b)(2);
 - (ii) Indicate that the agency will invite the student; and
 - (iii) Identify any other agency that will be invited to send a representative.
- (c) Other methods to ensure parent participation. If neither parent can attend, the public agency shall use other methods to ensure parent participation, including individual or conference telephone calls.
- (d) Conducting an IEP meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case the public agency must have a record of its attempts to arrange a mutually agreed on time and place, such as -
- (1) Detailed records of telephone calls made or attempted and the results of those calls;
 - (2) Copies of correspondence sent to the parents and any responses received; and
 - (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- (e) Use of interpreters or other action, as appropriate. The public agency shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with

deafness or whose native language is other than English.

(f) Parent copy of child's IEP. The public agency shall give the parent a copy of the child's IEP at no cost to the parent.

(Authority: 20 U.S.C. 1414(d)(1)(B)(i))

§300.346 Development, review, and revision of IEP.

(a) Development of IEP.

(1) General. In developing each child's IEP, the IEP team, shall consider -

(i) The strengths of the child and the concerns of the parents for enhancing the education of their child;

(ii) The results of the initial or most recent evaluation of the child; and

(iii) As appropriate, the results of the child's performance on any general State or district-wide assessment programs.

(2) Consideration of special factors. The IEP team also shall -

(i) In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

(ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

(iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

(v) Consider whether the child requires assistive technology devices and services.

(b) Review and Revision of IEP. In conducting a meeting to review, and, if appropriate, revise a child's IEP, the IEP team shall consider the factors described in paragraph (a) of this section.

(c) Statement in IEP. If, in considering the special factors described in paragraphs (a)(1) and (2) of this section, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.

(d) Requirement with respect to regular education teacher. The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of--

(1) Appropriate positive behavioral interventions and strategies for the child; and

(2) Supplementary aids and services, program modifications or supports for school personnel that will be provided for the child, consistent with 300.347(a)(3).

(e) Construction. Nothing in this section shall be construed to require the IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

(Authority: 20 U.S.C. 1414(d)(3) and (4)(B) and (e))

§300.347 Content of IEP.

(a) General. The IEP for each child with a disability must include—

(1) A statement of the child's present levels of educational performance, including —

(i) How the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children); or

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(2) A statement of measurable annual goals, including benchmarks or short-term objectives, related to —

(i) Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum (i.e., the same curriculum as for nondisabled children), or for preschool children, as appropriate, to participate in appropriate activities; and

(ii) Meeting each of the child's other educational needs that result from the child's disability;

(3) A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved and progress in the general curriculum in accordance with paragraph (a)(1) of this section and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

(4) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(3) of this section;

(5)(i) A statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and

(ii) If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of -

(A) Why that assessment is not appropriate for the child; and

(B) How the child will be assessed;

(6) The projected date for the beginning of the services and modifications described in paragraph (a)(3) of this section, and the anticipated frequency, location, and duration of those services and modifications; and

(7) A statement of -

(i) How the child's progress toward the annual goals described in paragraph (a)(2) of this section will be measured; and

(ii) How the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of -

(A) Their child's progress toward the annual goals; and

(B) The extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

(b) Transition services. The IEP must include--

(1) For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the

applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced-placement courses or a vocational education program); and

(2) For each student beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

(c) Transfer of rights. In a State that transfers rights at the age majority, beginning at least one year before a student reaches the age of majority under State law, the student's IEP must include a statement that the student has been informed of his or her rights under Part B of the Act, if any, that will transfer to the student on reaching the age of majority, consistent with §300.517.

(d) Students with disabilities convicted as adults and incarcerated in adult prisons. Special rules concerning the content of IEPs for students with disabilities convicted as adults and incarcerated in adult prisons are contained in §300.311(b) and (c).

(Authority: 20 U.S.C. 1414(d) (1) (A) and (d) (6) (A) (ii))

§300.348 Agency responsibilities for transition services.

(a) If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.347(b) (1), the public agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

(b) Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

(Authority: 20 U.S.C. 1414(d) (5); 1414(d) (1) (A) (vii))

§300.349 Private school placements by public agencies.

(a) Developing IEPs.

(1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child in accordance with §§300.346 and 300.347.

(2) The agency shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(b) Reviewing and revising IEPs.

(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

(2) If the private school or facility initiates and conducts these meetings, the public agency shall ensure that the parents and an agency representative—

(i) Are involved in any decision about the child's IEP; and (ii) Agree to any proposed changes in the IEP before those changes are implemented.

(c) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.

(Authority: 20 U.S.C. 1412(a)(10)(B))

§300.350 IEP—accountability.

(a) Provision of services. Subject to paragraph (b) of this section, each public agency must—

(1) Provide special education and related services to a child with a disability in accordance with the child's IEP; and

(2) Make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP.

(b) Accountability. Part B of the Act does not require that any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and benchmarks or objectives. However, the Act does not prohibit a State or public agency from establishing its own accountability systems regarding teacher, school, or agency performance.

(c) Construction--parent rights. Nothing in this section limits a parent's right to ask for revisions of the child's IEP or to invoke due process procedures if the parent feels that the efforts required in paragraph (a) of this section are not being made.

(Authority: 20 U.S.C. 1414(d)); Cong. Rec. at H7152 (daily ed., July 21, 1975))

Subpart D—Children in Private Schools

Children With Disabilities In Private Schools

Placed Or Referred By Public Agencies

§300.401 Responsibility of State educational agency.

Each SEA shall ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency—

(a) Is provided special education and related services—

(1) In conformance with an IEP that meets the requirements of §§300.340-300.350; and

(2) At no cost to the parents;

(b) Is provided an education that meets the standards that apply to education provided by the SEA and LEAs (including the requirements of this part); and

(c) Has all of the rights of a child with a disability who is served by a public agency.

(Authority: 20 U.S.C. 1412(a)(10)(B))

§300.402 Implementation by State educational agency.

In implementing §300.401, the SEA shall—

(a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and

(c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.

(Authority: 20 U.S.C. 1412(a)(10)(B))

Children With Disabilities Enrolled By Their Parents in Private Schools When FAPE is at Issue

§300.403 Placement of children by parents if FAPE is at issue.

(a) General. This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency shall include that child in the population whose needs are addressed consistent with §§300.450-300.462.

(b) Disagreements about FAPE. Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures of §§300.500-300.517.

(c) Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEAs.

in §§300.453-300.454, it will make available to private school children with disabilities.

§300.456 Location of services; transportation.

(a) On-site. Services provided to private school children with disabilities may be provided on-site at a child's private school, including a religious school, to the extent consistent with law.

(b) Transportation.

(1) General.

(i) If necessary for the child to benefit from or participate in the services provided under this part, a private school child with a disability must be provided transportation--

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of §300.453.

(Authority: 20 U.S.C. 1412(a)(10)(A))

Subpart E-Procedural Safeguards

Due Process Procedures for Parents and Children

§300.500 General responsibility of public agencies; definitions.

(a) Responsibility of SEA and other public agencies. Each SEA shall ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of §§300.500-300.529.

(b) Definitions of "consent," "evaluation," and "personally identifiable." As used in this part--

(1) Consent means that--

(i) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

(ii) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

(iii) (A) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime.

(B) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

(2) Evaluation means procedures used in accordance with §§300.530-300.536 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs; and

(3) Personally identifiable means that information includes--

(i) The name of the child, the child's parent, or other family member;

(ii) The address of the child;

- (iii) A personal identifier, such as the child's social security number or student number; or
- (iv) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

(Authority: 20 U.S.C. 1415(a))

§300.501 Opportunity to examine records; parent participation in meetings.

(a) General. The parents of a child with a disability must be afforded, in accordance with the procedures of §§300.562- 300.569, an opportunity to-

(1) Inspect and review all education records with respect

to-

(i) The identification, evaluation, and educational placement of the child; and

(ii) The provision of FAPE to the child; and

(2) Participate in meetings with respect to-

(i) The identification, evaluation, and educational placement of the child; and

(ii) The provision of FAPE to the child.

(b) Parent participation in meetings.

(1) Each public agency shall provide notice consistent with §300.345(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (a)(2) of this section.

(2) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

(c) Parent involvement in placement decisions.

(1) Each public agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

(2) In implementing the requirements of paragraph (c)(1) of this section, the public agency shall use procedures consistent with the procedures described in §300.345(a) through (b)(1).

(3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency shall use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

(4) A placement decision may be made by a group without the involvement of the parents, if the public agency is unable to obtain the parents' participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement, including information that is consistent with the requirements of §300.345(d).

(5) The public agency shall make reasonable efforts to ensure that the parents understand, and are able to participate in, any group discussions relating to the educational placement of their child, including arranging for an interpreter for parents with deafness, or whose native language is other than English.

(Authority: 20 U.S.C. 1414(f), 1415(b)(1))

§300.502 Independent educational evaluation.

(a) General.

(1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.

(2) Each public agency shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria

applicable for independent educational evaluations as set forth in paragraph (e) of this section.

(3) For the purposes of this part--

(i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and

(ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with §300.301.

(b) Parent right to evaluation at public expense. (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either--

(i) Initiate a hearing under §300.507 to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing under §300.507 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency initiates a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the public agency may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation—

(1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and

(2) May be presented as evidence at a hearing under this subpart regarding that child.

(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) Agency criteria.

(1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

(Authority: 20 U.S.C. 1415(b)(1))

§300.503 Prior notice by the public agency; content of notice.

(a) Notice.

(1) Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—

(i) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

(ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(2) If the notice described under paragraph (a)(1) of this section relates to an action proposed by the public agency that also requires parental consent under §300.505, the agency may give notice at the same time it requests parent consent.

(b) Content of notice. The notice required under paragraph (a) of this section must include—

(1) A description of the action proposed or refused by the agency;

(2) An explanation of why the agency proposes or refuses to take the action;

(3) A description of any other options that the agency considered and the reasons why those options were rejected;

(4) A description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

(5) A description of any other factors that are relevant to the agency's proposal or refusal;

(6) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

(7) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

(c) Notice in understandable language. (1) The notice required under paragraph (a) of this section must be—

(i) Written in language understandable to the general public; and

(ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency shall take steps to ensure-

(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(ii) That the parent understands the content of the notice; and

(iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

(Authority: 20 U.S.C. 1415(b)(3), (4) and (c), 1414(b)(1))

§300.504 Procedural safeguards notice.

(a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum-

(1) Upon initial referral for evaluation;

(2) Upon each notification of an IEP meeting;

(3) Upon reevaluation of the child; and

(4) Upon receipt of a request for due process under §300.507.

(b) Contents. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §§300.403, 300.500-300.529, and 300.560-300.577, and the State complaint procedures available under §§300.660-300.662 relating to-

(1) Independent educational evaluation;

(2) Prior written notice;

(3) Parental consent;

(4) Access to educational records;

(5) Opportunity to present complaints to initiate due process hearings;

- (6) The child's placement during pendency of due process proceedings;
 - (7) Procedures for students who are subject to placement in an interim alternative educational setting;
 - (8) Requirements for unilateral placement by parents of children in private schools at public expense;
 - (9) Mediation;
 - (10) Due process hearings, including requirements for disclosure of evaluation results and recommendations;
 - (11) State-level appeals (if applicable in that State);
 - (12) Civil actions;
 - (13) Attorneys' fees; and
 - (14) The State complaint procedures under §§300.660-300.662, including a description of how to file a complaint and the timelines under those procedures.
- (c) Notice in understandable language. The notice required under paragraph (a) of this section must meet the requirements of §300.503(c).
- (Authority: 20 U.S.C. 1415(d))

§300.505 Parental consent.

- (a) General.
 - (1) Subject to paragraphs (a)(3), (b) and (c) of this section, informed parent consent must be obtained before—
 - (i) Conducting an initial evaluation or reevaluation; and
 - (ii) Initial provision of special education and related services to a child with a disability.
 - (2) Consent for initial evaluation may not be construed as consent for initial placement described in paragraph (a)(1)(ii) of this section.
 - (3) Parental consent is not required before—

(i) Reviewing existing data as part of an evaluation or a reevaluation; or

(ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

(b) Refusal. If the parents of a child with a disability refuse consent for initial evaluation or a reevaluation, the agency may continue to pursue those evaluations by using the due process procedures under §§300.507-300.509, or the mediation procedures under §300.506 if appropriate, except to the extent inconsistent with State law relating to parental consent.

(c) Failure to respond to request for reevaluation.

(1) Informed parental consent need not be obtained for reevaluation if the public agency can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond.

(2) To meet the reasonable measures requirement in paragraph (c)(1) of this section, the public agency must use procedures consistent with those in §300.345(d).

(d) Additional State consent requirements. In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.

(e) Limitation. A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) and (d) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

(Authority: 20 U.S.C. 1415(b)(3); 1414(a)(1)(C) and (c)(3))

§300.506 Mediation.

(a) General. Each public agency shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in §300.503(a)(1) to resolve the disputes through a mediation process that, at a minimum, must be available whenever a hearing is requested under §§300.507 or 300.520-300.528.

(b) Requirements. The procedures must meet the following requirements:

(1) The procedures must ensure that the mediation process-

- (i) Is voluntary on the part of the parties;
- (ii) Is not used to deny or delay a parent's right to a due process hearing under §300.507, or to deny any other rights afforded under Part B of the Act; and
- (iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(2)(i) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(ii) If a mediator is not selected on a random (e.g., a rotation) basis from the list described in paragraph (b)(2)(i) of this section, both parties must be involved in selecting the mediator and agree with the selection of the individual who will mediate.

(3) The State shall bear the cost of the mediation process, including the costs of meetings described in paragraph (d) of this section.

(4) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

(5) An agreement reached by the parties to the dispute in the mediation process must be set forth in a written mediation agreement.

(6) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

(c) Impartiality of mediator. (1) An individual who serves as a mediator under this part—

(i) May not be an employee of—

(A) Any LEA or any State agency described under §300.194; or

(B) An SEA that is providing direct services to a child who is the subject of the mediation process; and

(ii) Must not have a personal or professional conflict of interest.

(2) A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency described under §300.194 solely because he or she is paid by the agency to serve as a mediator.

(d) Meeting to encourage mediation.

(1) A public agency may establish procedures to require parents who elect not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party—

(i) Who is under contract with a parent training and information center or community parent resource center in the State established under section 682 or 683 of the Act, or an appropriate alternative dispute resolution entity; and

(ii) Who would explain the benefits of the mediation process, and encourage the parents to use the process.

(2) A public agency may not deny or delay a parent's right to a due process hearing under §300.507 if the parent fails to participate in the meeting described in

paragraph (d)(1) of this section. (Authority: 20 U.S.C. 1415(e))

§300.507 Impartial due process hearing; parent notice.

(a) General.

(1) A parent or a public agency may initiate a hearing on any of the matters described in §300.503(a)(1) and

(2) (relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child).

(2) When a hearing is initiated under paragraph (a)(1) of this section, the public agency shall inform the parents of the availability of mediation described in §300.506.

(3) The public agency shall inform the parent of any free or low-cost legal and other relevant services available in the area if-

(i) The parent requests the information; or

(ii) The parent or the agency initiates a hearing under this section.

(b) Agency responsible for conducting hearing. The hearing described in paragraph (a) of this section must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA.

(c) Parent notice to the public agency.

(1) General. The public agency must have procedures that require the parent of a child with a disability or the attorney representing the child, to provide notice (which must remain confidential) to the public agency in a request for a hearing under paragraph (a)(1) of this section.

(2) Content of parent notice. The notice required in paragraph (c)(1) of this section must include-

(i) The name of the child;

(ii) The address of the residence of the child;

- (iii) The name of the school the child is attending;
- (iv) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and
- (v) A proposed resolution of the problem to the extent known and available to the parents at the time.

(3) Model form to assist parents. Each SEA shall develop a model form to assist parents in filing a request for due process that includes the information required in paragraphs (c)(1) and (2) of this section.

(4) Right to due process hearing. A public agency may not deny or delay a parent's right to a due process hearing for failure to provide the notice required in paragraphs (c)(1) and (2) of this section.

(Authority: 20 U.S.C. 1415(b)(5), (b)(6), (b)(7), (b)(8), (e)(1) and (f)(1))

§300.508 Impartial hearing officer.

(a) A hearing may not be conducted—

(1) By a person who is an employee of the State agency or the LEA that is involved in the education or care of the child; or (2) By any person having a personal or professional interest that would conflict with his or her objectivity in the hearing.

(b) A person who otherwise qualifies to conduct a hearing under paragraph (a) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(c) Each public agency shall keep a list of the persons who

serve as hearing officers. The list must include a statement of

the qualifications of each of those persons.

(Authority: 20 U.S.C. 1415(f)(3))

§300.509 Hearing rights.

(a) General. Any party to a hearing conducted pursuant to §§300.507 or 300.520-300.528, or an appeal conducted pursuant to §300.510, has the right to--

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 business days before the hearing;

(4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and

(5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.

(b) Additional disclosure of information.

(1) At least 5 business days prior to a hearing conducted pursuant to §300.507(a), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(c) Parental rights at hearings. (1) Parents involved in hearings must be given the right to--

(i) Have the child who is the subject of the hearing present; and

(ii) Open the hearing to the public.

(2) The record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section must be provided at no cost to parents.

(d) Findings and decision to advisory panel and general public. The public agency, after deleting any personally identifiable information, shall-

(1) Transmit the findings and decisions referred to in paragraph (a)(5) of this section to the State advisory panel established under §300.650; and

(2) Make those findings and decisions available to the public.

(Authority: 20 U.S.C. 1415(f)(2) and (h))

§300.510 Finality of decision; appeal; impartial review.

(a) Finality of decision. A decision made in a hearing conducted pursuant to §§300.507 or 300.520-300.528 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and §300.512.

(Authority: 20 U.S.C. 1415(i)(1)(A))

(b) Appeal of decisions; impartial review.

(1) General. If the hearing required by §300.507 is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA.

(2) SEA responsibility for review. If there is an appeal, the SEA shall conduct an impartial review of the hearing. The official conducting the review shall-

(i) Examine the entire hearing record;

(ii) Ensure that the procedures at the hearing were consistent with the requirements of due process;

(iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in §300.509 apply;

(iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;

(v) Make an independent decision on completion of the review; and

(vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties.

(c) Findings and decision to advisory panel and general public. The SEA, after deleting any personally identifiable information, shall—

(1) Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State advisory panel established under §300.650; and

(2) Make those findings and decisions available to the public.

(d) Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under §300.512.

(Authority: 20 U.S.C. 1415(g); H. R. Rep. No. 94-664, at p. 49 (1975))

§300.511 Timelines and convenience of hearings and reviews.

(a) The public agency shall ensure that not later than 45 days after the receipt of a request for a hearing—

(1) A final decision is reached in the hearing; and

(2) A copy of the decision is mailed to each of the parties.

(b) The SEA shall ensure that not later than 30 days after the receipt of a request for a review—

(1) A final decision is reached in the review; and

(2) A copy of the decision is mailed to each of the parties.

(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved. (Authority: 20 U.S.C. 1415)

§300.512 Civil action.

(a) General. Any party aggrieved by the findings and decision made under §§300.507 or 300.520-300.528 who does not have the right to an appeal under §300.510(b), and any party aggrieved by the findings and decision under §300.510(b), has the right to bring a civil action with respect to the complaint presented pursuant to §300.507. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

(b) Additional requirements. In any action brought under paragraph (a) of this section, the court-

(1) Shall receive the records of the administrative proceedings;

(2) Shall hear additional evidence at the request of a party; and

(3) Basing its decision on the preponderance of the evidence, shall grant the relief that the court determines to be appropriate.

(c) Jurisdiction of district courts. The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy.

(d) Rule of construction. Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under §§300.507 and 300.510 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.

(Authority: 20 U.S.C. 1415(i)(2), (i)(3)(A), and 1415(1))

§300.513 Attorneys' fees.

(a) In any action or proceeding brought under section 615 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents of a child with a disability who is the prevailing party.

(b)(1) Funds under Part B of the Act may not be used to pay attorneys' fees or costs of a party related to an action or proceeding under section 615 of the Act and subpart E of this part.

(2) Paragraph (b)(1) of this section does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under section 615 of the Act.

(c) A court awards reasonable attorney's fees under section 615(i)(3) of the Act consistent with the following:

(1) Determination of amount of attorneys' fees. Fees awarded under section 615(i)(3) of the Act must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(2) Prohibition of attorneys' fees and related costs for certain services.

(i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under section 615 of the Act for services performed subsequent to the time of a written offer of settlement to a parent if--

(A) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;

(B) The offer is not accepted within 10 days; and

(C) The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(ii) Attorneys' fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for a mediation described in §300.506 that is conducted prior to the filing of a request for due process under §§300.507 or 300.520-300.528.

(3) Exception to prohibition on attorneys' fees and related costs. Notwithstanding paragraph (c)(2) of this section, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(4) Reduction of amount of attorneys' fees. Except as provided in paragraph (c)(5) of this section, the court reduces, accordingly, the amount of the attorneys' fees awarded under section 615 of the Act, if the court finds that—

(i) The parent, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

(iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

(iv) the attorney representing the parent did not provide to the school district the appropriate information in the due process complaint in accordance with §300.507(c).

(5) Exception to reduction in amount of attorneys' fees. The provisions of paragraph (c)(4) of this section do not apply in any action or proceeding if the court finds that the State or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of the Act. (Authority: 20 U.S.C. 1415(i)(3)(B)-(G))

§300.514 Child's status during proceedings.

(a) Except as provided in §300.526, during the pendency of any administrative or judicial proceeding regarding a complaint under §300.507, unless the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.

(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

(c) If the decision of a hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a

change of placement is appropriate, that placement must be treated as an agreement between the State or local agency and the parents for purposes of paragraph (a) of this section.

(Authority: 20 U.S.C. 1415(j))

§300.515 Surrogate parents.

(a) General. Each public agency shall ensure that the rights of a child are protected if-

(1) No parent (as defined in §300.20) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) Duty of public agency. The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method-

(1) For determining whether a child needs a surrogate parent; and

(2) For assigning a surrogate parent to the child.

(c) Criteria for selection of surrogates. (1) The public agency may select a surrogate parent in any way permitted under State law.

(2) Except as provided in paragraph (c)(3) of this section,

public agencies shall ensure that a person selected as a

surrogate—

(i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;

(ii) Has no interest that conflicts with the interest of the child he or she represents; and

(iii) Has knowledge and skills that ensure adequate representation of the child.

(3) A public agency may select as a surrogate a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the standards in paragraphs (c)(2)(ii) and (iii) of this section.

(d) Non-employee requirement; compensation. A person who otherwise qualifies to be a surrogate parent under paragraph (c) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(e) Responsibilities. The surrogate parent may represent the child in all matters relating to—

(1) The identification, evaluation, and educational placement of the child; and

(2) The provision of FAPE to the child.

(Authority: 20 U.S.C. 1415(b)(2))

§300.517 Transfer of parental rights at age of majority.

(a) General. A State may provide that, when a student with a disability reaches the age of majority under State law that applies to all students (except for a

student with a disability who has been determined to be incompetent under State law)-

(1)(i) The public agency shall provide any notice required by this part to both the individual and the parents; and

(ii) All other rights accorded to parents under Part B of the Act transfer to the student; and

(2) All rights accorded to parents under Part B of the Act transfer to students who are incarcerated in an adult or juvenile, State or local correctional institution.

(3) Whenever a State transfers rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency shall notify the individual and the parents of the transfer of rights.

(b) Special rule. If, under State law, a State has a mechanism to determine that a student with a disability, who has reached the age of majority under State law that applies to all children and has not been determined incompetent under State law, does not have the ability to provide informed consent with respect to his or her educational program, the State shall establish procedures for appointing the parent, or, if the parent is not available another appropriate individual, to represent the educational interests of the student throughout the student's eligibility under Part B of the Act.

(Authority: 20 U.S.C. 1415(m))

Discipline Procedures

§300.519 Change of placement for disciplinary removals.

For purposes of removals of a child with a disability from the child's current educational placement under §§300.520-300.529, a change of placement occurs if-

(a) The removal is for more than 10 consecutive school days; or

(b) The child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year, and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.

(Authority: 20 U.S.C. 1415(k))

§300.520 Authority of school personnel.

(a) School personnel may order-

(1)(i) To the extent removal would be applied to children without disabilities, the removal of a child with a disability from the child's current placement for not more than 10 consecutive school days for any violation of school rules, and additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under §300.519(b));

(ii) After a child with a disability has been removed from his or her current placement for more than 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under §300.121(d); and

(2) A change in placement of a child with a disability to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days, if -

(i) The child carries a weapon to school or to a school function under the jurisdiction of a State or a local educational agency; or

(ii) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency.

(b)(1) Either before or not later than 10 business days after either first removing the child for more than 10 school days in a school year or commencing a removal that constitutes a change of placement under §300.519, including the action described in paragraph (a)(2) of this section—

(i) If the LEA did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the child before the behavior that resulted in the removal described in paragraph (a) of this section, the agency shall convene an IEP meeting to develop an assessment plan.

(ii) If the child already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and, modify the plan and its implementation as necessary, to address the behavior.

(2) As soon as practicable after developing the plan described in paragraph (b)(1)(i) of this section, and completing the assessments required by the plan, the LEA shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.

(c)(1) If subsequently, a child with a disability who has a behavioral intervention plan and who has been removed from the child's current educational placement for more than 10 school days in a school year is subjected to a removal that does not constitute a change of placement under §300.519, the IEP team members shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

(2) If one or more of the team members believe that modifications are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

(d) For purposes of this section, the following definitions apply:

(1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(2) Illegal drug—

(i) Means a controlled substance; but

(ii) Does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

(3) Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

(Authority: 20 U.S.C. 1415(k)(1), (10))

§300.521 Authority of hearing officer.

A hearing officer under section 615 of the Act may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer, in an expedited due process hearing —

(a) Determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;

(b) Considers the appropriateness of the child's current placement;

(c) Considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

(d) Determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the child's special education teacher, meets the requirements of §300.522(b).

(e) As used in this section, the term substantial evidence means beyond a preponderance of the evidence.

(Authority: 20 U.S.C. 1415(k)(2), (10))

§300.522 Determination of setting.

(a) General. The interim alternative educational setting referred to in §300.520(a)(2) must be determined by the IEP team.

(b) Additional requirements. Any interim alternative educational setting in which a child is placed under §§300.520(a)(2) or 300.521 must—

(1) Be selected so as to enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and

(2) Include services and modifications to address the behavior described in §§300.520(a)(2) or 300.521, that are designed to prevent the behavior from recurring.

(Authority: 20 U.S.C. 1415(k)(3))

§300.523 Manifestation determination review.

(a) General. If an action is contemplated regarding behavior described in §§300.520(a)(2) or 300.521, or involving a removal that constitutes a change of placement under §300.519 for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the LEA that applies to all children—

(1) Not later than the date on which the decision to take that action is made, the parents must be notified of that decision and provided the procedural safeguards notice described in §300.504; and

(2) Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

(b) Individuals to carry out review. A review described in paragraph (a) of this section must be conducted by the IEP team and other qualified personnel in a meeting.

(c) Conduct of review. In carrying out a review described in paragraph (a) of this section, the IEP team and other qualified personnel may determine that the behavior of the child was not a manifestation of the child's disability only if the IEP team and other qualified personnel -

(1) First consider, in terms of the behavior subject to disciplinary action, all relevant information, including -

(i) Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the child;

(ii) Observations of the child; and

(iii) The child's IEP and placement; and

(2) Then determine that -

(i) In relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;

(ii) The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and

(iii) The child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

(d) Decision. If the IEP team and other qualified personnel determine that any of the standards in

paragraph (c)(2) of this section were not met, the behavior must be considered a manifestation of the child's disability.

(e) Meeting. The review described in paragraph (a) of this section may be conducted at the same IEP meeting that is convened under §300.520(b).

(f) Deficiencies in IEP or placement. If, in the review in paragraphs (b) and (c) of this section, a public agency identifies deficiencies in the child's IEP or placement or in their implementation, it must take immediate steps to remedy those deficiencies.

(Authority: 20 U.S.C. 1415(k)(4))

§300.524 Determination that behavior was not manifestation of disability.

(a) General. If the result of the review described in §300.523 is a determination, consistent with §300.523(d), that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in §300.121(d).

(b) Additional requirement. If the public agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

(c) Child's status during due process proceedings. Except as provided in §300.526, §300.514 applies if a parent requests a hearing to challenge a determination, made through the review described in §300.523, that the behavior of the child was not a manifestation of the child's disability.

(Authority: 20 U.S.C. 1415(k)(5))

§300.525 Parent appeal.

(a) General.

(1) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement under §§300.520-300.528, the parent may request a hearing.

(2) The State or local educational agency shall arrange for an expedited hearing in any case described in paragraph (a)(1) of this section if a hearing is requested by a parent.

(b) Review of decision.

(1) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of the child's disability consistent with the requirements of §300.523(d).

(2) In reviewing a decision under §300.520(a)(2) to place the child in an interim alternative educational setting, the hearing officer shall apply the standards in §300.521.

(Authority: 20 U.S.C. 1415(k)(6))

§300.526 Placement during appeals.

(a) General. If a parent requests a hearing or an appeal regarding a disciplinary action described in §300.520(a)(2) or 300.521 to challenge the interim alternative educational setting or the manifestation determination, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in §300.520(a)(2) or 300.521, whichever occurs first, unless the parent and the State agency or local educational agency agree otherwise.

(b) Current placement. If a child is placed in an interim alternative educational setting pursuant to - §300.520(a)(2) or 300.521 and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of

any proceeding to challenge the proposed change in placement the child must remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in paragraph (c) of this section.

(c) Expedited hearing.

(1) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the LEA may request an expedited due process hearing.

(2) In determining whether the child may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards in §300.521.

(3) A placement ordered pursuant to paragraph (c) (2) of this section may not be longer than 45 days.

(4) The procedure in paragraph (c) of this section may be repeated, as necessary.

(Authority: 20 U.S.C. 1415(k) (7))

§300.527 Protections for children not yet eligible for special education and related services.

(a) General. A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the local educational agency, including any behavior described in §§300.520 or 300.521, may assert any of the protections provided for in this part if the LEA had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(b) Basis of knowledge. An LEA must be deemed to have knowledge that a child is a child with a disability if

(1) The parent of the child has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to personnel of the appropriate educational agency that the child is in need of special education and related services;

(2) The behavior or performance of the child demonstrates the need for these services, in accordance with §300.7;

(3) The parent of the child has requested an evaluation of the child pursuant to §§300.530-300.536; or

(4) The teacher of the child, or other personnel of the local educational agency, has expressed concern about the behavior or performance of the child to the director of special education of the agency or to other personnel in accordance with the agency's established child find or special education referral system.

(c) Exception. A public agency would not be deemed to have knowledge under paragraph (b) of this section if, as a result of receiving the information specified in that paragraph, the

agency--

(1) Either--

(i) Conducted an evaluation under §§300.530-300.536, and determined that the child was not a child with a disability under this part; or

(ii) Determined that an evaluation was not necessary; and

(2) Provided notice to the child's parents of its determination under paragraph (c)(1) of this section, consistent

with §300.503.

(d) Conditions that apply if no basis of knowledge.

(1) General. If an LEA does not have knowledge that a child is a child with a disability (in accordance with paragraphs (b) and (c) of this section) prior to taking disciplinary measures against the child, the child may

be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors consistent with paragraph (d)(2) of this section.

(2) Limitations.

(i) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under §300.520 or 300.521, the evaluation must be conducted in an expedited manner.

(ii) Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

(iii) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with the provisions of this part, including the requirements of §§300.520-300.529 and section 612(a)(1)(A) of the Act.

(Authority: 20 U.S.C. 1415(k)(8))

§300.528 Expedited due process hearings.

(a) Expedited due process hearings under §§300.521-300.526 must—

(1) Meet the requirements of §300.509, except that a State may provide that the time periods identified in §§300.509(a)(3) and §300.509(b) for purposes of expedited due process hearings under §§300.521-300.526 are not less than two business days; and

(2) Be conducted by a due process hearing officer who satisfies the requirements of §300.508.

(b)(1) Each State shall establish a timeline for expedited due process hearings that results in a written decision being mailed to the parties within 45 days of the public agency's receipt of the request for the hearing, without exceptions or extensions.

(2) The timeline established under paragraph (b)(1) of this section must be the same for hearings requested by parents or public agencies.

(c) A State may establish different procedural rules for expedited hearings under §§300.521-300.526 than it has established for due process hearings under §300.507.

(d) The decisions on expedited due process hearings are appealable consistent with §300.510.

(Authority: 20 U.S.C. 1415(k)(2), (6), (7))

§300.529 Referral to and action by law enforcement and judicial authorities.

(a) Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(b)(1) An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

(Authority: 20 U.S.C. 1415(k)(9))

Procedures For Evaluation And Determination Of Eligibility

§300.530 General.

Each SEA shall ensure that each public agency establishes and implements procedures that meet the requirements of §§300.531-300.536.

(Authority: 20 U.S.C. 1414(b)(3); 1412(a)(7))

§300.531 Initial evaluation.

Each public agency shall conduct a full and individual initial evaluation, in accordance with §§300.532 and 300.533, before the initial provision of special education and related services to a child with a disability under Part B of the Act.

(Authority: 20 U.S.C. 1414(a)(1))

§300.532 Evaluation procedures.

Each public agency shall ensure, at a minimum, that the following requirements are met:

(a)(1) Tests and other evaluation materials used to assess a child under Part B of the Act--

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; and

(ii) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

(2) Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

(b) A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to

participate in appropriate activities), that may assist in determining—

(1) Whether the child is a child with a disability under §300.7; and

(2) The content of the child's IEP.

(c)(1) Any standardized tests that are given to a child—

(i) Have been validated for the specific purpose for which they are used; and

(ii) Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.

(2) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.

(d) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(e) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(f) No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.

(g) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status,

general intelligence, academic performance, communicative status, and motor abilities.

(h) In evaluating each child with a disability under §§300.531-300.536, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

(i) The public agency uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(j) The public agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

(Authority: 20 U.S.C. 1412(a)(6)(B), 1414(b)(2) and (3))

§300.533 Determination of needed evaluation data.

(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under Part B of the Act, a group that includes the individuals described in §300.344, and other qualified professionals, as appropriate, shall -

(1) Review existing evaluation data on the child, including-

(i) Evaluations and information provided by the parents of the child;

(ii) Current classroom-based assessments and observations; and

(iii) Observations by teachers and related services providers; and

(2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine -

(i) Whether the child has a particular category of disability, as described in §300.7, or, in case of a

reevaluation of a child, whether the child continues to have such a disability;

(ii) The present levels of performance and educational needs of the child;

(iii) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

(b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting.

(c) Need for additional data. The public agency shall administer tests and other evaluation materials as may be needed to produce the data identified under paragraph (a) of this section.

(d) Requirements if additional data are not needed.

(1) If the determination under paragraph (a) of this section is that no additional data are needed to determine whether the child continues to be a child with a disability, the public agency shall notify the child's parents--

(i) Of that determination and the reasons for it; and

(ii) Of the right of the parents to request an assessment to determine whether, for purposes of services under this part, the child continues to be a child with a disability.

(2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

(Authority: 20 U.S.C. 1414(c)(1), (2) and (4))

§300.534 Determination of eligibility

(a) Upon completing the administration of tests and other evaluation materials -

(1) A group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in §300.7; and

(2) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

(b) A child may not be determined to be eligible under this part if-

(1) The determinant factor for that eligibility determination is-

(i) Lack of instruction in reading or math; or

(ii) Limited English proficiency ; and

(2) The child does not otherwise meet the eligibility criteria under §300.7(a).

(c)(1) A public agency must evaluate a child with a disability in accordance with §§300.532 and 300.533 before determining that the child is no longer a child with a disability.

(2) The evaluation described in paragraph (c)(1) of this section is not required before the termination of a student's eligibility under Part B of the Act due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE under State law.

(Authority: 20 U.S.C. 1414(b)(4) and (5), (c)(5))

§300.535 Procedures for determining eligibility and placement.

(a) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.7, and the educational needs of the child, each public agency shall-

(1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and

(2) Ensure that information obtained from all of these sources is documented and carefully considered.

(b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.340-300.350.

(Authority: 20 U.S.C. 1412(a)(6), 1414(b)(4))

§300.536 Reevaluation.

Each public agency shall ensure—

(a) That the IEP of each child with a disability is reviewed in accordance with §§300.340-300.350; and

(b) That a reevaluation of each child, in accordance with §§300.532-300.535, is conducted if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years. (Authority: 20 U.S.C. 1414(a)(2))

(c) Additional Procedures For Evaluating Children With Specific Learning Disabilities

§300.540 Additional team members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.7, must be made by the child's parents and a team of qualified professionals which must include—

(a)(1) The child's regular teacher; or

(2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or 3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and

(b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

(Authority: Sec. 5(b), Pub. L. 94-142)

§300.541 Criteria for determining the existence of a specific learning disability.

(a) A team may determine that a child has a specific learning disability if--

(1) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in paragraph (a)(2) of this section, if provided with learning experiences appropriate for the child's age and ability levels; and

(2) The team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:

- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) Reading comprehension.
- (vi) Mathematics calculation.
- (vii) Mathematics reasoning.

(b) The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of--

- (1) A visual, hearing, or motor impairment;
- (2) Mental retardation;
- (3) Emotional disturbance; or
- (4) Environmental, cultural or economic disadvantage.

(Authority: Sec. 5(b), Pub. L. 94-142)

§300.542 Observation.

(a) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

(b) In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(Authority: Sec. 5(b), Pub. L. 94-142)

§300.543 Written report.

(a) For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility, as required by §300.534(a)(2), must include a statement of--

- (1) Whether the child has a specific learning disability;
- (2) The basis for making the determination;
- (3) The relevant behavior noted during the observation of the child;
- (4) The relationship of that behavior to the child's academic functioning;
- (5) The educationally relevant medical findings, if any;
- (6) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
- (7) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(b) Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

(Authority: Sec. 5(b), Pub. L. 94-142)

Least Restrictive Environment (LRE)

§300.550 General LRE requirements

(a) Except as provided in §300.311(b) and (c), a State shall demonstrate to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets the requirements of §§300.550-300.556.

(b) Each public agency shall ensure—

(1) That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(2) That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(Authority: 20 U.S.C. 1412(a)(5))

§300.551 Continuum of alternative placements.

(a) Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must—

(1) Include the alternative placements listed in the definition of special education under §300.26 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(Authority: 20 U.S.C. 1412(a)(5))

§300.552 Placements.

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that--

(a) The placement decision--

(1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(2) Is made in conformity with the LRE provisions of this subpart, including §§300.550-300.554;

(b) The child's placement--

(1). Is determined at least annually;

(2) Is based on the child's IEP; and

(3) Is as close as possible to the child's home;

(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and

(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

(Authority: 20 U.S.C. 1412(a)(5))

§300.553 Nonacademic settings.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.306, each public agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.

(Authority: 20 U.S.C. 1412(a)(5))

\$300.554 Children in public or private institutions.

Except as provided in §300.600(d), an SEA must ensure that §300.550 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).

(Authority: 20 U.S.C. 1412(a)(5))

\$300.555 Technical assistance and training activities.

Each SEA shall carry out activities to ensure that teachers and administrators in all public agencies-

- (a) Are fully informed about their responsibilities for implementing §300.550; and
- (b) Are provided with technical assistance and training necessary to assist them in this effort.

(Authority: 20 U.S.C. 1412(a)(5))

\$300.556 Monitoring activities.

(a) The SEA shall carry out activities to ensure that §300.550 is implemented by each public agency.

(b) If there is evidence that a public agency makes placements that are inconsistent with §300.550, the SEA shall-

- (1) Review the public agency's justification for its actions; and
- (2) Assist in planning and implementing any necessary corrective action.

(Authority: 20 U.S.C. 1412(a)(5))

Confidentiality of Information

§300.560 Definitions.

As used in §§300.560-300.577-

(a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

(b) Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

(c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act.

(Authority: 20 U.S.C. 1221e-3, 1412(a)(8), 1417(c))

§300.561 Notice to parents.

(a) The SEA shall give notice that is adequate to fully inform parents about the requirements of §300.127, including-

(1) A description of the extent that the notice is given in the native languages of the various population groups in the State;

(2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations in 34 CFR part 99.

(b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.562 Access rights.

(a) Each participating agency shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §§300.507 and 300.521-300.528, and in no case more than 45 days after the request has been made.

(b) The right to inspect and review education records under this section includes—

(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

(2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) The right to have a representative of the parent inspect and review the records.

(c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.563 Record of access.

Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act

(except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.564 Records on more than one child.

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.565 List of types and locations of information.

Each participating agency shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.566 Fees.

(a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(b) A participating agency may not charge a fee to search for or to retrieve information under this part.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.567 Amendment of records at parent's request.

(a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information.

(b) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under §300.568.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

§300.568 Opportunity for a hearing.

The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.569 Result of hearing.

(a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

(b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(c) Any explanation placed in the records of the child under this section must—

(1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and

(2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.570 Hearing procedures.

A hearing held under §300.568 must be conducted according to the procedures under 34 CFR 99.22.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.571 Consent.

(a) Except as to disclosures addressed in §300.529(b) for which parental consent is not required by Part 99, parental consent must be obtained before personally identifiable information is -

(1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement of this part.

(b) An educational agency or institution subject to 34 CFR part 99 may not release information from education records to participating agencies without parental consent unless authorized to do so under part 99.

(c) The SEA shall provide policies and procedures that are used in the event that a parent refuses to provide consent under this section.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.572 Safeguards.

(a) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(b) One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under §300.127 and 34 CFR part 99.

(d) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.573 Destruction of information.

(a) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.

(b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.574 Children's rights.

(a) The SEA shall provide policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

(b) Under the regulations for the Family Educational Rights and Privacy Act of 1974 (34 CFR 99.5(a)), the rights of parents regarding education records are transferred to the student at age 18.

(c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with §300.517, the rights regarding educational records in §§300.562-300.573 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.575 Enforcement.

The SEA shall provide the policies and procedures, including sanctions, that the State uses to ensure that its policies and procedures are followed and that the requirements of the Act and the regulations in this part are met.

(Authority: 20 U.S.C. 1412(a)(8), 1417(c))

§300.576 Disciplinary information.

(a) The State may require that a public agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled children.

(b) The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child.

(c) If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any statement of current or previous disciplinary action that has been taken against the child.

(Authority: 20 U.S.C. 1413(j))

§300.577 Department use of personally identifiable information.

If the Department or its authorized representatives collect any personally identifiable information regarding children with disabilities that is not subject to 5 U.S.C. 552a (the Privacy Act of 1974), the Secretary applies the requirements of 5 U.S.C. 552a (b)(1)-(2), (4)-(11); (c); (d); (e)(1), (2), (3)(A), (B), and (D), (5)-(10); (h); (m); and (n); and the regulations implementing those provisions in 34 CFR part 5b. (Authority: 20 U.S.C. 1412(a)(8), 1417(c))

Subpart F--State Administration
State Complaint Procedures

\$300.660 Adoption of State complaint procedures.

(a) General. Each SEA shall adopt written procedures for--

(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of \$300.662 by--

(i) Providing for the filing of a complaint with the SEA; and

(ii) At the SEA's discretion, providing for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint; and

(2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State's procedures under §§300.660-300.662.

(b) Remedies for denial of appropriate services. In resolving a complaint in which it has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority under Part B of the Act, must address:

(1) How to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child; and

(2) Appropriate future provision of services for all children with disabilities.

(Authority: 20 U.S.C. 1221e-3)

\$300.661 Minimum State complaint procedures.

(a) Time limit; minimum procedures. Each SEA shall include in its complaint procedures a time limit of 60 days after a complaint is filed under \$300.660(a) to--

(1) Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary;

(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(3) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and

(4) Issue a written decision to the complainant that addresses each allegation in the complaint and contains--

(i) Findings of fact and conclusions; and

(ii) The reasons for the SEA's final decision.

(b) Time extension; final decision; implementation. The SEA's procedures described in paragraph(a) of this section also must--

(1) Permit an extension of the time limit under paragraph (a) of this section only if exceptional circumstances exist with respect to a particular complaint; and

(2) Include procedures for effective implementation of the SEA's final decision, if needed, including--

(i) Technical assistance activities;

(ii) Negotiations; and

(iii) Corrective actions to achieve compliance.

(c) Complaints filed under this section, and due process hearings under §§300.507 and 300.520-300.528.

(1) If a written complaint is received that is also the subject of a due process hearing under §300.507 or §§300.520-300.528, or contains multiple issues, of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section.

(2) If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties--

(i) The hearing decision is binding; and

(ii) The SEA must inform the complainant to that effect.

(3) A complaint alleging a public agency's failure to implement a due process decision must be resolved by the SEA.

(Authority: 20 U.S.C. 1221e-3)

§300.662 Filing a complaint.

(a) An organization or individual may file a signed written complaint under the procedures described in §§300.660-300.661.

(b) The complaint must include--

(1) A statement that a public agency has violated a requirement of Part B of the Act or of this part; and

(2) The facts on which the statement is based.

(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with §300.660(a) unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received under §300.660(a).

(Authority: 20 U.S.C. 1221e-3)

APPENDIX C
CALIFORNIA EDUCATION CODE CHANGES

California Special Education Programs
Amended Section

(New California Special Education Law designed to compel district's and LEAs to comply with State and Federal legislation).

California Senate Bill 1843. Article 8 §56845, provides authority to the Superintendent of Public Instruction to withhold, in whole or in part, state funds or Federal funds allocated under the IDEA from a district, special education local plan area, or county office after reasonable notice and opportunity for a hearing if the superintendent finds either of the following:

The district, special education local plan area, or county office failed to comply substantially with a provision of state law, Federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs which results in a failure to comply substantially with corrective action orders issued by the department resulting from monitoring findings or complaint investigations.

The district, special education local plan area, or county office failed to implement the decision of a due process hearing officer based on noncompliance with provisions of this part, its implementing regulations, provisions of the IDEA, or its implementing regulations, which noncompliance results in the denial of, or impedes the delivery of, a free and appropriate public education for an individual with exceptional needs.

Subdivision (b) of the section provides that when the Superintendent of Public Instruction determines that a district, special education local plan area, or county office made substantial progress toward compliance with state law, Federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs, the superintendent may apportion the state or Federal funds withheld from the district, special education local plan area, or county office.

Subdivision (c) says that state funds may not be allocated to offset any Federal funding intended for

individuals with exceptional needs, as defined in Section 56026, and withheld from a local educational agency due to the agency's noncompliance with state or Federal law.

Subdivision (b) exempts the California Department of Education from public contract code requirements, when funds are withheld from a local educational agency, in order to enter into contracts with one or more local educational agencies to serve individuals with exceptional needs who are not being served as required under state statute.

APPENDIX D
INNOVATIVE PROGRAMS

INNOVATIVE PROGRAMS

MONITORING AND GENERAL SUPERVISORY RESPONSIBILITIES

ARIZONA

Parent Information Network and Parents are Liaison to Schools (PALS)

Designed to "facilitate parent education and to increase parent participation."

Parents who are members of Parents are Liaison to Schools "serve on the Statewide steering committee for three years."

ARKANSAS

Stipend available for Parent Participation. They are used

to offset costs to parents for programs and events such as the "Annual Spring Parent Retreat and Special Show, a 'super' conference
Correlation of the General and Special Education Curriculum

Computerized correlation between the general education curriculum at all education levels and IEP benchmarks. When a teacher identifies specific benchmarks on an IEP, the program identifies the corresponding general education objective.

Training with Collaborative Models with Other Agencies and Special Interest Groups

Joint training for such groups as Parent Training and Information Center, Protection and Advocacy, Department of Human Services, Child and Family Services, foster parents, etc.

Mediation

State contracts with Parent Training and Information Center to "encourage parents' use of the mediation process. Information also disseminated from the State and from local education.

Data Collection and Analysis

State has developed a system for collecting and analyzing data regarding "compliance monitoring, complaints, and due process hearings" that generates reports, surveys and specific information analysis. Used both to identify compliance needs,

training needs and systemic improvement needs
across the state

CONNECTICUT

Surrogate Parent Program

Recruitment and training of a cadre of surrogates, many of whom are former special education administrators who are experts in the field of special education

Statewide Training

The Bureau of Consultants (full-time employees of the State Department of Education) and the State funded Special Education Resource Center (SERC) provide training focused on school-based programming for special education students and information to self-selected LEA instructional and support staff relative to State and Federal requirements.

FLORIDA

Clearinghouse/Information Center (CIC)

Resource center that provides parents, educators, and others with access to materials about individuals with disabilities, exceptional student education, school improvement, student outcomes, parent/professional partnerships, and many other topics. Contains more than 7,000 books, videotapes, films, multimedia kits, assessment tools, staff development materials, and other types of materials that may be borrowed on a short term basis. The center also maintains copies of about 400 items available free or at-cost, including annual reports, statistical reports, technical assistance papers and notes, resource manuals for particular special programs, annual program plans, parent resources, prekindergarten resources, and more

GEORGIA

Mediation

Annually contracts with the Justice Center of Atlanta, to provide an alternative method for the resolution of special education disputes for all agencies in the State. The Justice Center conducts individual mediation sessions, as well as training activities for State and local school system personnel. The contract specifies that training is

held twice a year. These efforts have led to fewer due process hearings and a greater number of successfully mediated disputes between parents and school system.

Parent Initiative Program

Technical assistance designed to facilitate communication between parents and educators in the special education process in the State. Publishes Home and School, Partners in Special Education, which describes the special education planning process, informs parents of their rights and responsibilities in the system, and stresses partnership between parents and schools. Also developed is a series of videotapes explaining the role of parents in the special education process, emphasizing effective communication skills. The booklet and tapes are made available through each of the local school systems and through the Georgia Learning Resource System.

KANSAS

Legal Issues Conference

National authorities present timely and controversial topics regarding related services, inclusion, private schools, assistive technology, and discipline, and other pertinent topics. Special education personnel and representatives of parent advocacy groups attend.

MISSISSIPPI

Data Collection System

Like a similar program developed in Arkansas - a data collection system that facilitates faster, more accurate collection of data, eliminates a significant amount of paperwork and allows access to student IEPs from the central office.

Teacher Support Teams

A statewide training program available to all schools in Mississippi. Teams are composed of both regular education and special education personnel; designed to address both learning and behavior problems of students and to safeguard children who are referred for evaluation and possible placement into a special program. Teacher support teams are structured to improve the implementation of

educational interventions, reduce the number of referrals for special education services, and improve teacher morale.

Distance Learning

State is considered a national leader in the area of distance learning and has entered into an agreement with the University of New Mexico, Research Institute of Assistive Training and Technology to develop and deliver assistive technology through distance learning. Through the program the State is able to offer teacher training in 76 electronic classrooms, some of which provide interactive teaching experience. (See also Montana which has developed a phenomenal web site devoted to special education and related issues)

MISSOURI

Missouri Innovations in Special Education

Published quarterly as a resource for teachers and school administrators who serve students with disabilities.

Special Education: Professional Development Opportunities in Missouri

Quarterly publication of statewide and national personnel training opportunities for general as well as special educators. Sponsored by the Center for Innovations in Special Education, the Department of Elementary and Secondary Education (DESE) Division of Special Education, DESE's Division of Urban and Teacher Education, and the University of Columbia at Columbia.

MONTANA

Positive Working Relationship with Parents

Evidences a strong commitment to public participation and has made an extraordinary effort to be accessible to parents and educators in spite of the logistic challenges posed in a large and sparsely populated state. Teams go to extraordinary lengths, including transporting the parent when necessary and refusing to hold meetings without parents' presence.

Collection of Suspension/Expulsion Data

The Division of Special Education in collaboration with Safe and Drug Free Schools, Gun Free Schools

and representatives from the Divisions of Measurement and Accountability and Information Systems Development/Maintenance worked together to create a data gathering instrument that allows the [State Agency] to collect suspension/expulsion data for all students, including students with disabilities. The resulting elimination of separate reports has significantly reduced the paperwork burden for schools and most importantly, students with disabilities are included as part of reporting requirements for all students.

Educational Interpreter Certificate Project

A comprehensive and collaborative training program utilizing distant learning strategies and summer programs to deliver instruction to educational interpreters serving students with disabilities. The project specifically addresses the skills necessary for providing educational interpretation. The project is unique in that what has begun as a two-State project has developed into a nine-State project, including the Bureau of Indian Affairs (BIA).

Early Assistance Program

Designed to provide technical assistance to parents, school districts and advocacy organizations in regard to the delivery FAPE. Intervention prior to a due process hearing stage or at the time of filing a complaint. Gathers information and attempts to resolve the problem within 15 school days. Actively involves parent and advocacy organizations

Parent Involvement in State-Level Task Forces and Work Groups

Parents are invited to be members of all work groups organized by the Office of Special Education. Workgroups are formed for various purposes, such as the development of technical assistance documents and providing policy interpretation in the form of "white papers." districts from repetitious reporting in multiple formats.

NEBRASKA

Nebraska Diagnostic Resource Center

Provides assistance and support in the areas of assessment, materials/resources and inservice training. The evaluation services include provision of full interdisciplinary educational evaluation, including onsite intake, exit staffing, and follow-ups as appropriate. Provides specialized consultation services to public agencies in the areas of education of students with head injuries, vocational special needs, community living, early childhood, and children with behavioral and emotional problems.

Teacher Support Cadre

Provides instructional support and assistance primarily to teachers of children with sensory impairments and other low incidence populations throughout the State. Provides direct support to rural areas with low incidence populations. Public agencies may request individuals from the Cadre to provide onsite consultation in the selection of instructional strategies, modifications to curriculum materials, development of behavior management programs, and provision of training for teachers, paraeducators and parents.

Interagency Collaboration

The State Education Agency and the Office of Vocational Rehabilitation jointly funded the position of Vocational Rehabilitation Transition Coordinator. Juvenile justice transition services are provided to incarcerated youth through a jointly funded initiative of the Office of Vocational Rehabilitation and Office of Juvenile Justice. Approximately 100 students in an Omaha juvenile justice facility are provided job coaching, mentoring and GED programs.

Nebraska Parent Training and Information Center

Provides timely and accurate information to parents throughout the State.

Parents Encouraging Parents

An annual conference, begun in 1985, for parents and foster parents of children with disabilities. Information presented on due process rights, and State and Federal legislation which impacts on special education, and effective methods of

participation in the IEP process. The conference provides parents of children with disabilities with an opportunity to share ideas and information on parenting and educating a child with a disability.

NEW HAMPSHIRE

Task Force for the Improvement of Secondary Special Education in New Hampshire

A committee of 12 individuals from the Department of Education, adult service agencies, local school districts and related organizations, who conduct a competition for discretionary grants funded through the Office of Special Education and Rehabilitative Services and administered by the State Department of Education. Projects funded emphasize statewide goals in the areas of transition, drop-out prevention and inclusion for secondary students. Task force members encourage submission of proposals from all areas of the State, especially those that have the potential for application across districts.

North Country Education Foundation

Regional collaboration of the eight most northern School Administrative Units in the State. Assists districts with issues specific to the needs of these rural populations, including isolation, lack of access to technology and resources, and building partnerships with local businesses and service agencies in the implementation of transition requirements. Provides specialized training to parents and special and regular education teachers in inclusion, transition, behavior management, and assessment, among other areas. Has established a resource library available to all schools, and has organized an itinerant teacher group, comprised of psychologists, vision and hearing specialists, occupational therapists, and speech diagnosticians, who serve students throughout the region.

Institute on Disability

Conducts research, provides technical assistance and disseminates information regarding promising practices and current literature in the areas of severe disabilities, transition, inclusion, and drop-out prevention.

OKLAHOMA

Comprehensive System of Personnel Development

Formation of four Regional Action Teams of parents, consumers, advocacy groups, LEAs, institutions of higher learning, SoonerStart programs, vocational and technical education, and rehabilitation services. Provides a forum for communication, to identify regional personnel needs, and to implement activities based on those needs. The Council provides: a forum for discussion of issues relative to personnel preparation on a statewide basis; provides advice and oversight for changes in existing policy and rules affecting personnel development; recommends changes in delivery of preservice and continuing education; and promotes personnel development opportunities for individuals, including families and general educators involved in the education of students with disabilities.

Resources for Physical and Occupation Therapy Services in Oklahoma Public Schools

Designed to meet the need for occupational and physical therapists who are well qualified to provide related services to children with disabilities in the public schools. Support to district schools for locating and providing qualified occupational and physical therapists is available through technical assistance consultations; an employment/referral database of available pediatric occupational and physical therapists; a mentoring program for newly graduated occupational and physical therapists employed in public schools; assistance in drafting and developing school contracts; and continued development of 'best practices' practicum sites for occupational and physical therapy students.

Mediation

Parents and representatives from other agencies collaborated with the Alternative Dispute Resolution Program to establish convenient access to mediation through a statewide network of Early Settlement Centers, allowing parents and schools to

request mediation sessions to address issues of dispute under IDEA.

Statewide Systems Change Project

Collaborative effort between the State agency, university affiliate programs, the Interagency Coordinating Council for Special Services to Children and Youth, and local school districts to provide training and technical assistance to families and professionals working with children and youth with severe disabilities in developing and implementing educational programs in school and community environments. In collaboration with family support groups, advocacy agencies, state agencies, LEAs and colleges and universities throughout the State.

NORTH CAROLINA

Technical Assistance and Staff Development Activities

Designed to address compliance issues and effect program improvement. Developed an IEP manual that has been made available to all districts.

NORTH DAKOTA

Parent Training Using Public Television

Three videotapes aired on public television
Individualized Education Program: A tool for success in education and beyond

Discipline Provisions: Positive behavioral supports and beyond

Assessment: Bridging the gap between teaching and learning for all students

Family Educator Enhancement Teams (FEET)

Provides frequent newsletters to schools and parents. Included are available training opportunities offered by schools, universities and other agencies throughout the State.

Paraprofessional Training

Requires paraprofessionals to receive orientation and training, or demonstrate competencies, in five areas, including parent involvement

Interagency Service Support Efforts

Aim is to develop preventative and supportive service systems among agencies. Agencies include: Foster Care, Mental Health and Developmental

Disabilities in the Department of Human Services, Juvenile Services in the Department of Corrections, and the Department of Public Instruction.

OREGON

Special Education Programs in State Juvenile Correctional Facilities

Academic, vocational and special educators work together in a team structure, with each team serving about 40 students. Program staff also work closely with parents and local communities to prepare for the successful return of youth to public schools and their communities.

Complaint Management

New procedures have resulted in all complaints being resolved within the 60-day time limit, except those cases when the time limit was extended where exceptional circumstances exist with respect to a particular complaint. Complaint closures are clearly written, thoroughly address each allegation, and include decisions that are clearly linked to applicable law and regulation.

Alternative Dispute Resolution

Mediators are trained and appointed by the State and made available to parents and local districts to resolve disputes. Emphasizes a systemic approach to preventative and negotiated methods of conflict resolution for preempting or resolving disputes.

RHODE ISLAND

IEP and Least Restrictive Environment

Development of an extensive IEP manual entitled, Individually Designed Education for Students with Disabilities: Purpose, Process and Relationship to Least Restrictive Environment. Served as text for the statewide IEP/LRE trainings. At the preservice level, colleges are incorporating elements of the training and using the IEP manual. Extensive IEP/LRE training focusing on creating inclusionary schools through the use of co-teaching and collaborative teaching. Invitation to school districts to compete for inclusion grants for planning, professional development and implementation of inclusive schools.

Complaint Management System

Investigated and resolved all but three of its 37 complaints within 60 days. Timelines for the three complaints that exceeded 60 days were extended due to extraordinary circumstances with regard to those complaints.

Classroom Alternatives Process/Classroom Alternatives Support Team (CAP/CAST)

System for providing support to regular classroom teachers as they develop alternatives for students experiencing learning or behavioral difficulties. CAST teams within each school join in the problem-solving efforts. Although the team is primarily composed of regular education staff, special education staff provides support as needed. By directly assisting the regular classroom teacher, this process is expected to yield more appropriate referrals to special education and eliminate unnecessary referrals.

CONNECS (Coordinating Natural Networks for Effective Collegial Support)

Statewide professional and program development initiative designed to build the capacity of schools to address the emotional, behavioral and social needs of all students, particularly those with special behavioral needs. Partnerships are formed among schools, families, organizations and the community for creating safe, respectful and effective climates for teaching and learning.

Within the context of a school setting, professional development opportunities such as collaboration, peer consultation, mentoring, coaching and resource exchange are made available.

Rhode Island Technical Assistance Project (RITAP)

Focuses its services on technical assistance and support to State and local educational agencies in an effort to promote excellence in education for all students. Provides a mechanism for interagency collaboration at the local, regional and State levels to develop, implement and evaluate services for students with disabilities. Staff members at RITAP provide technical assistance in areas such as: transition services, assistive technology, instructional modifications, coordination of

services, and training for administrators and policy makers.

*Comprehensive System for Personnel Development
Advisory Committee*

Includes participants from every State institution of higher education that prepares special education and related services providers. Committee members play an important role in addressing current and projected special education and related services personnel needs.

TEXAS

Hotline

Toll-free number to answer parents' questions about special education and provide them with information that will help them resolve issues involving their children's special education programs. Provides callers with information about filing a complaint or requesting a due process hearing. Provides voice mail response in both English and Spanish. Support staff accesses voice mail every two hours and then refers these calls to one of four or five program staff persons.

Mediation

Eight trained mediators help parents and school districts resolve disputes informally as an alternative to the due process system.

Training Efforts and Publications

Activities include training on emotional disturbance, collaborative education, assistive technology, learning disabilities, inclusion, postsecondary transition, and autism. Training events have reached over 13,000 individuals. Developed and made available several high-quality publications such as Rules and Regulations for Providing Special Education Services, a side-by-side comparison of State, Federal, HeadStart, and Child Care regulations.

UTAH

*Behavioral and Educational Strategies for Teachers
(BEST)*

Statewide mechanism to provide comprehensive staff development designed to provide behavioral and educational strategies for teachers across the

continuum of educational services from regular education settings to self-contained settings. Project staff focus on three primary activities: the establishment of model demonstration sites that can be used as a means of providing training experiences to teachers and other staff; the training of local teams through the BEST Teams Institute; and ongoing Statewide technical assistance and training through conferences and workshops. The purpose of the Team is to enhance the capacity of schools, districts, and regions to provide high quality service to students with behavioral disorders.

Statewide Assistance Team (SWAT)

Teacher-to-teacher network, that operates on the idea that if one person is having difficulty dealing with a particular type of student or situation, there is likely another who has been successful in dealing with the same issue who can act as a support base and serve as a resource. Designed to develop and implement effective strategies to deal with behaviors in the least restrictive environment.

Staff Retention and Recruitment

Districts in close proximity to universities and community colleges introduce students to the field of special education by utilizing student interns, job coaches, and using students as peer tutors. To accommodate an emerging need for bilingual personnel, districts offer financial incentives to teachers for dual certification

To recruit new teachers to work with students with severe disabilities, districts provide incentives that enable university interns to return to school for endorsements and certifications that increase their salary base while they are working toward full certification.

To address the shortage of teachers of students with severe disabilities, one facility used paraprofessionals, working in teams and supervised by certified staff, for "on the job" training. This experience allows the paraprofessionals an opportunity to determine whether they want to

continue formal training and receive certification in this field.

VERMONT

Building Effective Supports for Teachers (BEST)
Targeted at increasing schools' ability to support students with emotional and behavioral problems. Focuses on increasing educational options and resources, the training of school staff, collaboration with families and other agencies and building regional capacity.

FAPE

ARIZONA

Training in Functional Behavior Assessments
"Handy Guide to Functional Behavior Assessment"
provided to all local agencies
Special Education Classes Available Through the SELECT Program
SELECT (Special Education Learning Experiences for Competency in Teaching). University courses offered through Exceptional Student Services, the Northern Arizona University Office of Statewide Academic Programs, and the Institute for Human Development. An incentive program offers to pay for teachers' classes at university if they complete the classes to obtain special education certification with an "A" or "B" grade.

LEAST RESTRICTIVE ENVIRONMENT

ALABAMA

Least Restrictive Environment Inclusion Pilot Projects

Competitive grants program for individual schools and public agencies to fund three-year model projects/programs which demonstrate effective methods for inclusion of students with disabilities into regular education programs. Project sites established across all age ranges and diverse geographic regions. Examples: programs designed to increase inclusion in regular classrooms, training for teachers and administrators in methods of collaboration, instructional strategies, parent support team schools, dissemination of promising practices, expanding inclusion programs into feeder schools

ARKANSAS

Nightschool Program

One district has developed a special education component for their regular education night school program. The program runs from 3-6pm and "provides children who have failed or are failing core courses with opportunities to make up credits and/or improve their performance." Special education students may make up credits or may "take these courses prior to taking them during the day, giving them a head start in understanding the material and, in some cases, enabling them to take these classes in the general education classroom rather than in resource room settings."

Co-teaching to Promote Participation in General Education Settings

One district has implemented co-teaching at all educational levels which provides students with disabilities to "participate and achieve success in general education settings." It also provides training in "the implementation of modifications and accommodations to general educators," and offers training to special educators in "general curriculum subject areas."

New Licensure Requirements for General Educators

General educators are now required to take six, rather than the previous three, hours of mandatory training in "the diverse learning styles and behaviors exhibited by children with disabilities."

Reimbursement for Interpreters

The cost of educational interpreters for the deaf who work in schools to "support opportunities for the hearing impaired to participate in general education settings" is underwritten by the State."

FLORIDA

Mobility Opportunities Via Education (MOVE)

Presented alternatives for therapy service delivery to students with severe and profound physical and cognitive impairments by training teachers, therapists, and paraprofessionals in the MOVE curriculum. During the duration of the project, nearly 500 people in 40 school districts were

trained in the model and funded a cadre of 26 trainers. Equipment and materials bought throughout the project years remain in the schools for use by students and staff implementing MOVE curriculum.

GEORGIA

The Institute for Educational Interpreters

Provides specialized training opportunities for educational interpreters and paraprofessionals with interpreting duties. Each summer, approximately 30-50 individuals participate, and to date, approximately 150 individuals statewide have received training from the Institute.

KANSAS

Use of Paraprofessionals

Currently, Kansas has 5,708 paraprofessionals providing services and support for special education statewide. Each paraprofessional is provided no less than 20 hours of inservice training a year. An annual statewide paraprofessional conference provides guidance and information on State and Federal special education requirements, as well as instructional techniques and strategies. Funding for paraprofessionals is provided through a combination of local, State and Federal funds. Paraprofessionals are widely utilized in each of the LEAs, as a means to support students with disabilities in regular education programs.

MONTANA

Training for Inclusive Education (TIE) Project

Provides training opportunities to school districts to assist them in initiating and implementing inclusive educational practices. The project is unique in that teams must consist of: 1) an administrator; 2) a general educator; 3) a special educator; 4) a parent of a child with a disability; 5) a paraprofessional or aide; and 6) a related service person." Key concepts developed during the training include: team-building and leadership training; strategies for adapting the curriculum to meet the needs of a diverse student population; appropriate use of the general curriculum and classroom activities to meet IEP goals for

individual students; ways of reallocating time and money resources in order to better serve students in the general education setting; techniques and models for collaborating with parents, professionals and paraprofessionals; models and roles used in the practice of team-teaching; principles of working with peer tutors and circles of support; and communication skills and issues of conflict resolution." Over 60 schools with teams of six or more members have received training. This program has been proactive in linking the education of students with disabilities to the general curriculum and assisting those students in meeting high standards.

TEXAS

Inclusion Pilot Projects

Through Leadership for Improving Special Education Services in Texas has flowed approximately \$20 million to districts throughout the State for pilot projects to promote the inclusion of students with disabilities in regular education classrooms.

VERMONT

Inclusion

Vermont leads the nation in the percentage of students with disabilities educated in regular classroom settings, with 88.6% of its students with disabilities, aged 6 through 21, served in the regular classroom (1992-93 school year).

INDIVIDUALIZED EDUCATION PLAN

ARKANSAS

Development of Joint IEP Training Model for Parents and Educators

A grant from the Governor's Developmental Disabilities Council has been used to develop and implement "joint training for parents and educators on developing IEPs." The training was developed with the input of both educators and parents.

FLORIDA

Quality Indicators for Individual Education Programs (IEP)

Training that addresses eleven essential parts of a quality IEP, which parallel the Federal

requirements for IEP content. Each IEP component has a list of Quality Indicators which can be utilized in order to assure that all information is addressed. The document, *Guide for Instructional Personnel: Regional Meetings Version*, has been developed to support this initiative.

SOUTH DAKOTA

Attendance at IEP Meetings

During the 1997-98 school year, 98% of parents attended IEP meetings, up from 82% in the 1994-95 school year.

BEHAVIORAL ASSESSMENT/TREATMENT/PLANS

ARKANSAS

Training for Functional Behavioral Assessment and Behavior Intervention Plan

Statewide, when a student "exhibits a pattern of behavior that may result in continued disciplinary referrals or suspension," data is collected and analyzed for "antecedents to the behavior, the behavior exhibited, and the result of the consequence applied." The result of the behavioral analysis is the creation of an individualized behavior intervention plan, "as part of the IEP, to intervene in the behavior and interrupt the pattern." This functional behavior assessment program is managed and coordinated by school psychology specialists, and "is available to teams for consideration should a manifestation determination become necessary." Statewide training is provided.

Establishment of a Network of Behavioral Intervention Consultants

Ten regionally-based consultants are funded by the State to work with local district personnel in such areas as "functional behavior assessments, positive behavior supports and behavior intervention plans."

FLORIDA

The Multiagency Network for Students with Severe Emotional Disabilities (SEDNET)

Statewide multiagency network that facilitates quality education, mental health, and, when necessary, residential treatment essential to student success. SEDNET has established Regional

Advisory Boards, funded by school boards within districts of the Department of Children and Families and the Department of Juvenile Justice for projects serving students within each region. The advisory boards serve as resources for information and support for children with severe emotional disabilities. The SEDNET regional projects represent over 500 child-serving agencies across the State, including the following:

Local Boards of Education

Department of Children and Families Alcohol, Drug Abuse and Mental Health programs

Department of Labor and Employment Security Vocational Rehabilitation programs

Florida Federation of Families for Children's Mental Health

Juvenile justice programs

Parent, child, and family advocacy groups

GEORGIA

Behavioral Intervention Program

Model collaboration between three local school systems and the state for the purpose of dealing more effectively with children who exhibit self-injurious behaviors. Students may be referred for a period of six weeks. The program is available to students statewide. The program is set up for replication back in the school setting, and teachers are assisted with developing skills and educational strategies, targeting behaviors, and taking these techniques back to implement in the regular classroom.

MARYLAND

The Center for the Study of Troubling Behavior

A technical assistance project funded by MSDE, which was established to support local education agencies and individual schools in addressing the needs of children and adolescents who exhibit disruptive, or other troubling behaviors in school settings. The Center works with school staff to develop innovations and programs, establish linkages with local mental health agencies, provide graduate level coursework for new teachers, and

assist teachers in responding to troubling behaviors exhibited in the classroom.

MISSISSIPPI

Children's Advisory Committee

Composed of representatives from the State Department of Education, Health and Human Services and Mental Health, and the Division of Medicaid, Mississippi Families as Allies, Inc., Mississippi Health Advocacy, and the Council for Youth Court Judges. The Committee is charged with the development of a plan to: design and implement local level pilot projects which allow for a single point of entry for eligible children, pool State funds from categorical agencies, develop and expand local services to prevent out-of-community placements, and provide an array of services within a coordinated system of care.

State Level Case Review Team

Reviews cases concerning children and adolescents demonstrating emotional and/or behavioral problems for whom adequate treatment or placement cannot be found at the county or local level, and for whom any single State agency has been unable to secure necessary services through its own resources. Team members meet monthly to review individual cases presented by a local or member State agency in an effort to develop programs which combine resources and referral information through all member agencies to meet the needs of the child. Agencies represented on the Team include: Department of Human Services, Department of Education (Office of Special Education), Department of Health, Department of Mental Health, Department of Medicaid and the Office of the Attorney General.³

MONTANA

Montana Behavioral Institute

A comprehensive staff development project created to improve the capacities of schools and communities to meet the diverse and increasingly complex social, emotional and behavioral needs of students. The Institute assists educators and other community members in developing the attitudes, skills, and systems necessary to ensure that each

student leaves public education and enters the community with social competence appropriate to the individual regardless of ability or disability. Personnel in over one hundred districts have received training.

NEW HAMPSHIRE

Institute of Emotional Disabilities

Based on the Keene State College campus in Keene, the Institute operates a campus-based certification program for teachers of students with emotional disturbance (a critical need area identified by State Agency). Has created a task force to address improved methods to prepare teachers in this area, and also has sponsored eight statewide conferences for teachers and others who deal with this population of students.

RHODE ISLAND

Children's Mental Health Services

Collaborative effort with Department of Children, Youth and Families to create the Training and Technical Assistance Task Force designed to enhance the capacity of local communities to provide comprehensive education, mental health, recreation and family support for children at risk of out-of-home placement.

UTAH

Functional Behavioral Assessment (FUBA) and Behavioral Intervention Plan (BIP)

State has conducted numerous trainings across the State to assist school personnel to effectively use these instruments to conduct functional behavioral analysis and to create appropriate behavioral intervention plans.

VERMONT

School for Students with Emotional and Behavioral Problems

Goal of the separate school for these students is to build student self-esteem and help them turn around negative self-defeating behaviors so they can be successful in school, on the job and in the community. Utilizes a low student-teacher ratio, strong parent, school, social service and community collaboration and involvement, and intensive

individualization around academic and behavioral issues. Program director estimates that over 50% of the students who attend this program - students who had been high-risk candidates for dropping out of school - ultimately graduate from high school. Many of these students have been returned to regular high schools.

SEVERE DISABILITIES

GEORGIA

The Bureau for Students with Severe Disabilities

The result of a cooperative effort between the Division of Exceptional Students, the [State Agency], and Georgia University, Department of Special Education and Educational Psychology. Its mission is to provide a statewide systemic approach to assist teachers and schools that are involved in the education of students with severe and profound intellectual disabilities. The Bureau is funded in part with Federal discretionary monies and provides training for teachers on a regional basis. Services include lectures on best practices, hands-on work with students in classrooms and demonstration teaching. The goal of the initiative is to develop a cadre of qualified teachers who can work with children with severe disabilities.

MARYLAND

Neighborhood Schools Inclusion Projects

A project designed to improve the quality of special education services to students with severe disabilities and to facilitate the delivery of those services in inclusive settings.

Assessing Behavior and Learning Environments (ABLE)

Instrument designed for students who are severely disabled to obtain a more realistic determination of their preferences and interests beginning at age 14 or younger

LOW INCIDENCE DISABILITIES

NEW HAMPSHIRE

New Hampshire Educational Services for the Sensory Impaired (NHESST)

Organization created to support local school districts in the education of students with a wide variety of sensory impairments. A resource program

which provides training to parents, teachers, and other professionals in the creation of curriculum modifications and implementation of accommodations for students with sensory impairments in the classroom. Also provides consultative services, assistance with evaluations, program planning, and a wide variety of supports, including maintenance of a parent/professional library and media/materials center for students with sensory impairments, with Braille and large print materials, auditory trainers, low-vision aids, computers, software and augmentative communication equipment.

OKLAHOMA

Enriching Children's Hearing Opportunities (ECHO)
Collaborative effort between the State Department of Education and the (State) School for the Deaf. Statewide home program for families with children who have a hearing impairment (birth to age 6). A coordinator and several trained parent advisors make weekly home visits to teach parents to manage their child's hearing aid; help their child learn to use the child's residual hearing; communicate effectively with their child; and increase and improve the child's language skills. Designed to meet the individual needs of families as well as providing program staff the opportunity to work closely with other agencies serving the child so that the child and family receive well-coordinated services.

OREGON

Services to Children and Youth with Deafblindness
The program coordinates services which assist students with deafblindness to remain in their communities with families and friends and to be educated in local schools. The program services children birth through 21 years of age and provides technical support to multidisciplinary teams to effectively implement services needed by students with deafblindness. Using Federal and State funds, [State Agency] supports a Deafblind Consulting teacher in each of the State's eight regions.

Currently 70-80 students with deafblindness are served Statewide.

RHODE ISLAND

Traumatic Brain Injury Center

In collaboration with the Department of Health, [State Agency] established the Center to offer assistance and training to LEA personnel in the identification, evaluation and educational implications of this disability for IEP planning.

TRANSITION

ALABAMA

Transition Conference

Held for past 5 years In cooperation with Department of Rehabilitation Services, and Auburn's Department of Rehabilitation and Special Education. Annual statewide conference in transition planning designed to "create new transition programs, improve the quality of existing transition programs, policies and strategies at both the local and State levels." Presents workshops "in the areas of agency coordination, vocational programming, community-based instruction, and supported working and living." Recognizes "outstanding students, employees, parents and transition programs through presentations of financial awards."

Transition Pilot Program

In conjunction with Department of Rehabilitative Services, and the Department of Mental Health/Mental Retardation Uses joint funding of these agencies for pilot transition projects Across diverse geographic areas

Four goals of project:

Establish local transition team

Adopt and implement the Life Centered Career Education Curriculum in the secondary school system
Provide a school-based job coach

Provide a case manager responsible for arranging for services and supports for students and their families.

Financial support and training provided collaboratively by all participating State agencies.

ARIZONA

Consideration of Transition Services from School to Work Employment and Post-Secondary Activities
Guidance has been provided for "instructing districts to generate discussion of and address the transition service needs for students ages 3 - 21

ARKANSAS

Continued Support of Systems Change Grant
Activities

Establishment and maintenance of Statewide "cadre of Transition Consultants to provide training, consultation and facilitation of the development of Regional Interagency Transition Teams.

Agency Fest

Opportunity for various agencies that offer transition and adult services to "showcase their services and provide information to school personnel and families.

Directory of Transition Resources on the Web Site

This program is especially beneficially to those in rural areas. Is also a good resource for families and school personnel. Maintained on school web site.

Training Paraprofessionals to be Job Coaches

Developed to improve the delivery of services to "youth working on postsecondary transition activities at community job sites" where the paraprofessionals serve as job coaches.

GEORGIA

Transition Consortium

Through awareness of the need for improved services in the area of transition, the Department of Rehabilitation Services, the [State Agency], the Department of Labor, Colleges and Universities, Mental Health and parents statewide have collaborated in their efforts to share resources at the local school system level to identify student needs for provision of transition services. The goal of the consortium is to provide a unified delivery system, and identify issues, problems and barriers to implementation based on the collective experience of the participants. The Consortium

sponsors the annual *Statewide Transition Conference* which focuses on enabling more students with disabilities to obtain entry into colleges, universities, and technical schools. Conference participants include representatives from the Department of Labor, Rehabilitation Services, Division of Exceptional Students, colleges and universities, adult and teacher education. A major thrust of the conference is the development of a collaborative agreement between the [State Agency], the Department of Adult and Technical Education and the Department of Vocational Rehabilitation to allow students who graduate with special diplomas or a GED to enter technical schools in the State.

Systems Change Grant

Assists public agencies in facilitating the transition from school to adult life for youth with disabilities. The major component of the grant is to provide subgrants to individual public agencies to employ rehabilitation counselors. The counselors provide direct consultative services to individual students, and train and consult with teachers and other service providers in public agencies throughout the State. A Special Services Endorsement Program for school rehabilitative counselors has been developed in cooperation with the University of Nebraska at Omaha. The courses are attended by teachers, parents, and administrators throughout the State through a satellite broadcast system. In addition, a *Transition Advisory Committee* was formulated, consisting of parents, teachers, administrators, employers, and representatives from other agencies, such as the Department of Labor, Department of Health, Social Security, and the Department of Social Services. The Committee coordinates the efforts of these organizations in providing transition services to students with disabilities in the State, gathers materials, sets priorities, and assists public agencies in developing linkages and cooperative agreements in the communities.

NEBRASKA

Transition Project

Conducted a 1998 Transition Survey of students and parents to assess the status of students with disabilities following high school exit and to determine their perceptions of high school experiences, including transition services, employment, postsecondary education, access to adult service agencies and government benefits. The results of the survey will be used to ensure an on-going assessment of, and response to, the transition experiences and adult living status of individuals.

Transition Advisory Committee

Comprised of parents, teachers, administrators, employers and representatives from agencies including the Department of Labor, Department of Health, Social Security and the Department of Social Services. The committee coordinates efforts of these organizations in providing transition services to students with disabilities, gathers materials, sets priorities, and assists public agencies in developing linkages and cooperative agreements in communities.

NORTH DAKOTA

Funding for Transition Coordinators

Department of Vocational Rehabilitation agreed to continue to fund positions for Transition Coordinators beyond the expiration of the Transition-related change grant. These individuals are available to assist school districts in planning and coordinating transition activities.

Interagency Coordination for Transition

Departments of Special Education and Vocational Education, Vocational Rehabilitation, Developmental Disabilities, and representatives of Higher Education meet regularly as a task force to identify and attempt to resolve issues of concern related to transition and to refine the interagency agreement related to transition

Longitudinal Follow-Up Study

Collection of longitudinal data on students who have left school in order to evaluate the effectiveness of transition planning.

RHODE ISLAND

Postsecondary Transition

Developed a *Transition Services Manual* and provided copies to every district. Conducted a series of training sessions (about 400 participants representing each district were involved).

In the process of developing a multiagency cooperative to specify agency responsibilities that will include the Departments of Human Services, (Office of Rehabilitation Services), Mental Health, Retardation and Hospitals (Divisions of Developmental Disabilities and Mental Health) Children, Youth and Families (Mental Health Services), Secondary Education (Special, Vocational and Technical Education), Employment and Training (Human Resource Investment Council).

Secondary Transition Program in Meade County

Creates opportunities for students which allow them to move to additional job training, directly into employment and to attend colleges throughout the State. Through the self-advocacy training, students become articulate, assertive and motivated to succeed. *OSEP recommends that South Dakota replicate this program as extensively as possible (emphasis added).*

SOUTH DAKOTA

Disabilities Coordinators in Vocational Technical Institutes and Universities

These institutions have disability coordinators available to assist young adults with disabilities and their families. Two training programs,

"Navigating," and

"Catch the Wave" have been made available across the State to assist high school students in preparing to go to college. The Vocational Rehabilitation Program provides "Project Skills" to assist students in acquiring job-related skills.

ASSESSMENT

ARKANSAS

Alternate Assessment

State among the first group of states to "work collaboratively through the Council of the Chief State School Officers to develop effective alternate assessment for children with disabilities who do not participate in Statewide assessment program. Included is to be portfolio assessment and the development of scoring rubrics and models of performance measurement."

NORTH DAKOTA

Increased Involvement in State- and District-wide Assessment Programs

State is taking proactive steps to increase the involvement of children with disabilities in assessment programs, including a broad-based Task Force to identify barriers and develop alternate methods of assessment for children unable to participate in Statewide assessments. Task Force includes school principles, regular educators, guidance counselors, special educators, university personnel, outreach service providers, [State Agency] personnel, and parents with knowledge of assessment issues.

TEXAS

Statewide Assessment and Accountability System

Approximately 50% of students with disabilities participate in State assessments, while the remainder are exempted. Senate Bill 1, enacted in May 1995, included a requirement that an assessment system be developed for all students currently exempted from State assessments, and that their performance results be included in the accountability system.

ASSISTIVE TECHNOLOGY

FLORIDA

Assistive Technology Educational Network (ATEN)

Promotes, supports, and coordinates statewide delivery of assistive technology services to students with disabilities. Provides opportunities for awareness, preview, demonstration, and training

for students, family members, teacher and other professionals to integrate technology into the curriculum. Services to students ages 3-21 are free of charge and include the following:

Technical assistance and training

Print resources

Local assistive technology specialists (LATS)

Loan library

Florida Resource Guide for Assistive Technology
Devices and Services

GEORGIA

Project for Assistive Technology

Coordinates a statewide technical support network in the area of Assistive technology. Staff members conduct a range of technical assistance and training activities such as on-site visits to assist local school system personnel in the development and implementation of programs for individual students, establishment of site-based technology teams, provision of training on methods of evaluation of students for Assistive technology, facilitation of Regional and State training workshops, and establishment of a short term lending library.

MISSISSIPPI

Assistive Technology Center

Statewide service that provides evaluation, training and resources in the use of assistive technology devices by students with disabilities. The Center's services are provided without cost to recipients, whether they access the services at the Center or via the electronic classroom video system. The goal of the Center is to assist educators with the latest technology and its integration into the student's curriculum.

NEBRASKA

Assistive Technology Project

Makes information on assistive technology available to consumers throughout the State. The geography of Nebraska that includes both expansive rural areas as well as urban settings was a major consideration in developing the goals and objectives of this project. The project utilizes a toll-free number to

provide information on the availability of assistive technology, the costs and possible sources of funding. A peer support network of volunteers was established to put individuals with disabilities and their family members in touch with each other. Individuals can benefit from their experiences in purchasing, using, customizing, maintaining and repairing technology devices by talking with other technology users. Workshops and training sessions that teach participants about assistive technology are among the project activities conducted throughout the State.

APPENDIX E

SUPPLEMENT: A SPECIAL EDUCATOR'S "QUICK AND DIRTY"

HOUSEKEEPING HANDBOOK

**A Special Educator's
“Quick and Dirty”
Housekeeping Handbook**

M. A. Kaspar, M. A.

LB Wofsy, M. A.

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Section I

GENERAL SUGGESTIONS FOR ASSESSMENT AND OBSERVATION

GENERAL SUGGESTIONS FOR ASSESSMENT AND OBSERVATION

ACADEMIC ASSESSMENT

1. Student work samples are an excellent source for determining student performance.
2. Compare samples of student work over time.
3. Is the student performing above, at, or below grade or age appropriate levels?
4. What rubric(s) have been used to determine the student's performance levels?
5. Has the student's performance improved over time? Has it gotten worse? Has it stayed the same?
6. Describe the pre- and post-tests used to determine the changes in the student's performance.
7. Clarify the specific performance changes you want to see.
8. How are they tied to the goals you are trying to assess?
9. What interventions have been used to address the academic areas in which the student is having difficulties?
10. Which, if any, of the interventions used have been successful?

BEHAVIORAL OBSERVATIONS

1. Describe the student's observable behaviors NOT how you believe the student feels or the reasons for the student's behavior.
2. Determine when the student behaves in a particular way.
3. Determine the frequency of the behavior.
4. Determine what events precede the behavior.
5. Determine how the student escalates or de-escalates while engaged in a particular behavior.
6. Describe the interventions that have been used to address the behavior. Have the interventions been successful? Unsuccessful?

Example: When Jimmy is assigned seatwork, he yells "This is stupid" or other negative phrases. He also tells jokes and makes fun of his classmates. Over a five- day period, Monday through Friday, I noted that Jimmy spoke loudly when the class was on "quiet" during the transition period before every activity that involved reading or writing. (Examples of statements he yelled out include: "This is stupid." "Why do we have to do this, this is dumb." "Look at Tommy! He has his finger up his nose!") He also engaged in appropriate behaviors. (He slid books off his desk and onto the floor twice,

broke pencils on three separate occasions, and stood up on the seat of his desk once). Jimmy did not engage in this type of behavior when transitioning to math unless I told the class during the transition period that the assignment for the day would involve word problems. When I stood near Jimmy and read the word problems aloud with him, he remained on task. When I moved to assist another student Jimmy began telling his seatmate a joke three out of seven times I observed him during a 40- minute lesson. Two of those seven times he made rude comments about a fellow classmate sitting at a nearby work table.

Section II

PLACEMENT PROCESS

Placement Process

PRE-STUDENT STUDY

TEACHER OBSERVATION

ALTERNATIVE STRATEGIES USED – WEEK ONE

ASSESS

ALTERNATIVE STRATEGIES – WEEK TWO

ASSESS

IDENTIFY – STUDENT IS UNABLE TO WORK INDEPENDENTLY

AT THE SAME LEVEL AS HIS PEERS IN:

READING

WRITTEN EXPRESSION

MATH

ORAL COMMUNICATION

RECEPTIVE LANGUAGE

EXPRESSIVE LANGUAGE

FINE/GROSS MOTOR SKILLS

BEHAVIORS

SOCIAL DEVELOPMENT

SHY

TIMID

AGGRESSIVE

TALKATIVE

RESTLESS

INDEPENDENT WORK

FOLLOWING DIRECTIONS

LISTENING SKILLS

LOCATING WRITTEN DIRECTIONS

ORAL DIRECTIONS

ASKING APPROPRIATE QUESTIONS

FOLLOWING DAILY ROUTINE

ACCEPTING CHANGE IN ROUTINE

TAKING NOTES

INCORPORATING

**FOLLOWING RULES FOR ORGANIZED
ACTIVITIES**

TAKING TURNS APPROPRIATELY

**REFRAINING FROM INAPPROPRIATE
LANGUAGE/ACTIONS**

PROBLEM-SOLVING

PEER INTERACTION

COMPLETING ASSIGNED TASKS

CHANGING TASKS INDEPENDENTLY

GETTING ATTENTION APPROPRIATELY
WORKING WITHOUT PROMPTS
PERSONAL RESPONSIBILITY
CLEANING UP
FOLLOWING CLASSROOM RULES
ASKING PERMISSION
INTERACTING WITH ADULTS
ACCEPTING RESPONSIBILITY FOR ACTIONS
ACCEPTING PRAISE
ACCEPTING CRITICAL COMMENTS
INCORPORATING THOSE CHANGES
ACCEPTING CONSEQUENCES
PROBLEM SOLVING
THINKING BEFORE ACTING
SEEKING APPROPRIATE
INTERVENTIONS TO HELP SOLVE PROBLEM
RESPONDING CALMLY WHEN FACED WITH
PROBLEM
ABILITY TO APPROPRIATELY DEAL WITH
NEGATIVE PEER INTERACTION
RECOGNIZING WHAT THEY HAVE CONTROL
OVER (PEER INTERACTION)
LEARNING FROM MISTAKES
SETTING APPROPRIATE GOALS

SOCIAL BEHAVIORS

RECOGNIZE MEANING OF TONE OF VOICE/NON-VERBAL CLUES
TURN-TAKING IN COMMUNICATION
EXPRESS APPRECIATION
GIVE/RECEIVE COMPLIMENTS
STUDY SKILLS
ON-TASK BEHAVIORS
FOLLOWING DIRECTIONS

STUDENT STUDY TEAM REFERRAL

POSITIVE ATTRIBUTES
NEGATIVE ATTRIBUTES
IF SEVERE, THEN CALL SPECIAL ED REP IMMEDIATELY
RATIONALE FOR IMMEDIATE INTERVENTION
SUGGESTED INTERVENTIONS
TIME LINE FOR IMPLEMENTING INTERVENTIONS
MEETING ONE
MEETING TWO

STUDENT STUDY TEAM PROCESS

**PAPER WORK FROM GENERAL ED TO STUDENT STUDY TEAM
COORDINATOR (A GENERAL ED FUNCTION)**

**STUDENT STUDY TEAM MEETING CALLED
SEASONED GENERAL ED TEACHERS WHO CAN GENERATE
IDEAS FOR INTERVENTIONS TO FACILITATE LEARNING
MATERIALS NEEDED:**

DEVELOPMENTAL HISTORY

POSITIVES

NEGATIVES

ACADEMIC AND BEHAVIORAL

GENERAL ED TEACHER

PARENT

PARENT NOTIFIED

PARENT ACCEPTS

ADMINSTRATOR

INTERVENTIONS AND WHO IS RESPONSIBLE

ASSESSMENT OF INTERVENTIONS

NEW INTERVENTIONS

2 – 3 MEETINGS

ARRANGE FOR SPECIAL EDUCATOR TO PARTICAPATE

REPEAT PROCESS

**NOTICE OF CONSIDERATION FOR SPECIAL EDUCATION SENT TO
PARENT PRIOR TO NEXT MEETING**

FINAL MEETING – ASSESSMENT SUGGESTED

**FORMAL REFERRAL FROM REFERRING PARTY (STUDENT
STUDY TEAM/PARENT)**

**IF FROM PARENT, SST BYPASSED – NOTICE OF CONSIDERATION
AND FORMAL REFERRAL TO PARENTS FOR SIGNATURE – 15 DAYS
TIMELINE AFTER PARENT REQUEST TO CREATE ASSESSMENT PLAN**

ASSESSMENT

FORMAL REFERRAL FILLED OUT

SPECIFY REASONS

NOTICE OF CONSIDERATION FILLED OUT

DISCUSS TESTINGS THAT ARE DONE

PSYCHOEDUCATIONAL

ACADEMIC

PARENT UNDERSTANDS RANGE OF TESTING

STANDARDIZED TESTING EXPLAINED

EXPLAIN HOW TESTING IS DONE

WHAT FORMS

RATIONALE FOR PLACEMENT UNDER FEDERAL GUIDELINES

JUST BECAUSE STUDENT GRADES LOW DOES NOT MEAN THEY WILL
BE IN

DISCREPANCY HAS TO BE NOTED BETWEEN ABILITY AND
ACHIEVEMENT
ASSESSMENT

OBSERVATIONS -PLAYGROUND, CLASSROOM, LUNCH ROOM,
LIBRARY, COMPUTER ROOM, TEACH CLASS

DATE

OBSERVED BEHAVIORS

4-5 TIMES

50 DAYS FROM ASSESSMENT PLAN TO INITIAL IEP

MEETING

TESTS

STANDARDIZED

CRITERION-REFERENCED

STANDARDS/BENCHMARKS FOR GRADELEVEL

ACADEMIC - CASE-CARRIER/RESOURCE SPECIALIST

PSYCHOEDUCATIONAL - SCHOOL PSYCH

VISION/HEARING/HEALTH HISTORY - SCHOOL NURSE

INCLUDES MEDICATIONS

ABSENCES

ANY MEDICAL INFORMATION

INITIAL IEP TEAM MEETING

NOTICE TO PARENT MINIMUM OF 10 DAYS IN ADVANCE

NOTICE TO STUDENT

NOTICE TO TEAM MEMBERS -

PARENT

STUDENT

GENERAL EDUCATOR

SPECIAL EDUCATION

ADMINISTRATORS/DESIGNEE

SCHOOL PSYCH

MENTAL HEALTH WORKERS

SCHOOL NURSE

SPECIAL ED ADMINISTRATOR

REGIONAL CENTER REPRESENTATIVE

LANGUAGE INTERPRETER

PROGRAM SPECIALIST

PARENT INVITEES

SPEECH LANGUAGE

SOCIAL WORKERS

ADAPTIVE PE

REHABILITATION COUNSELORS

TRANSITION COUNELORS
 ANY OTHER SERVICE PROVIDERS
 ANYONE WITH KNOWLEDGE OF STUDENT WHO MIGHT
 HAVE INSIGHT INTO STUDENT BEHAVIOR/LIMITATIONS
 ALL ASSESSMENT DATA COMPILED AND EVALUATED
 REPORTS GENERATED
 REPORTS PRESENTED
 DATE OF MEETING ESTABLISHED
 CALL TO REMIND PARENTS NOTIFICATION
 OUR RESPONSIBLITY TO ASSURE PARENT WILL BE THERE
 PARENTS SCHEDULES NEED TO BE TAKEN INTO
 ACCOUNT
 PRESENT LEVELS OF PERFORMANCE REPORTED BY EACH
 TESTER
 DISCUSSION OF STANDARD SCORES OF INTELLIGENCE/ABILITY
 AND THEIR ACADEMIC ACHIEVEMENT
 PHYSICAL/MEDICAL/EMOTIONAL/EDUCATIONAL
 TEAM DISCUSSES WHAT THOSE NUMBERS SHOW
 EITHER ABILITY/ACHIEVEMENT ARE COMMESURATE
 IF DISCREPANCY - Then What?
 SIGNIFICANT/NOT SIGNIFICANT
 MUST HAVE PROCESSING DISORDER
 TEAM DETERMINES ELIGIBILITY BASED ON ALL INFORMATION
 DO YOU WANT TO PARTICIPATE IN SPECIAL ED
PLACEMENT CONSIDERATIONS
 GENERAL ED CLASSROOM
 ACCOMMODATIONS
 MODIFICATIONS
 RESOURCE ROOM (49% MAX PLACEMENT)
 SPECIAL DAY CLASS (51% MINIMUM)
 PERCENTAGES/ACITIVIES IN GENERAL ED
 SPECIAL DAY CLASS – MILD/MODERATE
 SPECIAL DAY CLASS – MODERATE/SEVERE
 SPECIAL DAY CLASS – SED
 ALTERNATIVE PROGRAMS
 NON-PUBLIC SCHOOL
 RESIDENTIAL PLACEMENT
 DESIGNATED INSTRUCTIONAL SERVICES
 HOME HOSPITAL
 SPEECH/LANGUAGE
 MENTAL HEALTH
 AGENCIES INVOLVED
 DISTRICT/SELPA

MENTAL HEALTH
REGIONAL CENTER
CHILDRENS' TREATMENT SERVICES
GOALS & OBJECTIVES
ACADEMIC
BEHAVIORAL
CLASSROOM STRATEGIES
CHECK TO BENCHMARK

MENTAL HEALTH
REGIONAL CENTER
CHILDRENS' TREATMENT SERVICES
GOALS & OBJECTIVES
ACADEMIC
BEHAVIORAL
CLASSROOM STRATEGIES
CHECK TO BENCHMARK

Section III

PRE-STUDENT STUDY TEAM CHECKLIST

PRE-STUDENT STUDY TEAM (SST) CHECKLIST

NOTE: This checklist is to be used to make observations ONLY. It is not designed as a tool for making placement determinations.

OBSERVATIONS

Dates			Language	F O N*			Comments
			Understands single step directions				
			Understands multiple step directions				
			Organizes/expresses thoughts easily				
			Participates in class discussions				
			Remembers material presented verbally				
			Grade appropriate vocabulary - written				
			Grade appropriate vocabulary - verbal				
			Grade appropriate listening skills				
			Communicates needs, wants, ideas effectively				
			Speaks another language fluently				YES <input type="checkbox"/> NO <input type="checkbox"/> /

* (F) frequently (O) occasionally (N) never

Language Spoken

Dates			Reading	F O N*			Comments
			Has good word attack skills				
			Recognizes common "sight words"				
			Copies/writes letters, numbers appropriately (does not reverse them)				
			Reads with fluency (not word-by-word)				
			Reads without substitutions, omissions, mispronunciations				
			Matches words, letters, pictures, accurately				
			Works well from crowded paper, page, whiteboard, bulletin board, etc				
			Keeps place on page without assistance				
			Keeps place on page with assistance - finger on word, bookmark under line, etc				
			Easily reads small or unusual type				

* (F) frequently (O) occasionally (N) never

OBSERVATIONS

Dates			Math	F O N*			Comments
			Grade appropriate computation skills				
			Demonstrates grade appropriate knowledge of math facts				
			Demonstrates grade appropriate math skills				
			Understands grade appropriate math concepts				
			Demonstrates grade appropriate math application				
			Relies on alternative strategies to solve math problems - counting on fingers, drawing lines, etc				

* (F)requently (O)ccasionally (N)ever

Dates			Study/Work Skills	F O N*			Comments
			Remains on-task (Define criteria)				
			Follows written directions				
			Follows directions given orally				
			Completes assigned classwork				
			Completes assigned homework				
			Work is organized and neat				
			Stays focused when others are off-task				
			Appears alert and willing to participate in class				

* (F)requently (O)ccasionally (N)ever

OBSERVATIONS

Dates			Behavior - Positive	F O N*			Comments
			Remains seated when instructed to do so				
			Works well without constant supervision				
			Plays with others without constant supervision				
			Plays alone without constant supervision				
			Reacts appropriately to constructive criticism				
			Easily redirected				
			Exhibits positive self-image				
			Makes friends easily				
			Conforms to classroom rules				
			Effectively problem solves during peer interactions				
			Takes turns appropriately				
			Follows the conventions of dialogue (does not interrupt, allows others to speak, sticks to the topic, etc)				
			Asks for permission before standing, walking around classroom, etc.				
			Says, "Please", "Thank You", "Excuse Me", etc. when appropriate				
			Initiates interaction with peers				
			Accepts responsibility for own behavior				
			Assists others without direction when appropriate				

* (F) frequently (O) occasionally (N) never

Dates			Behavior - Negative	F O N*			Comments
			Uses verbally abusive language with peers				
			Uses verbally abusive language with staff/parents/other adults				
			Uses sexually inappropriate language with peers				
			Uses sexually inappropriate language with staff/parents/other adults				
			Screams/cries when thwarted				
			Verbally threatens peers				
			Verbally threatens staff/parents/other adults				
			Physically threatens peers				
			Physically threatens staff/parents/other adults				
			Hits/Slaps/Pushes/Kicks/Spits on/Throws objects at peers				
			Hits/Slaps/Pushes/Kicks/Spits on/Throws objects at staff/parents/other adults				
			Refuses to follow directions				
			Blames others for mistakes, misconduct				
			Demands one-to-one attention				
			Takes others' possessions without asking				
			Steals others' possessions				
			Damages public/private property				
			Tears papers/ breaks pencils, etc.				
			Refuses to participate in group activities				
			Makes up negative stories about others to get attention.				
			Makes up stories about others to draw attention away from own negative behavior				

* (F) frequently (O) occasionally (N) never

OBSERVATIONS

Dates			Perception (Visual)	Y/N/U*	Comments
			Lacks visual acuity		
			Letters/numbers written unevenly		
			Letters/numbers unevenly spaced		
			Reverses letters/numbers/words		
			Has difficulty "tracking"		
			words/letters/numbers across a printed page		
			May have visual acuity problems (Assessment requested?/Date to be Assessed?)		

* (X)es (N)o (U)nclear

Dates			Fine Motor Skills	F O N*	Comments
			Legible handwriting		
			Prints letters/numbers using appropriate conventions (top to bottom, left to right rather than from bottom to top)		
			Stays on the line		
			Letters/numbers evenly spaced		
			Letters/numbers uniformly sized		
			Grasps writing instrument appropriately		
			Traces without difficulty		
			Stays between the lines		
			Confuses left and right (Directionality)		
			Writes legibly with appropriate speed		
			Written words are neither too heavy nor too light (pencil does not create holes in paper)		
			Uses scissors to cut along appropriate lines		

* (F)requently (O)ccasionally (N)ever

Dates			Gross Motor Skills	F O N*			Comments
			Locomotion skills (running, walking, balance, etc) are age appropriate				
			Object control skills (throwing/catching/ a ball, etc) are age appropriate				

* (F)requently (O)ccasionally (N)ever

Dates			Health	Y/N/U*			Comments
			Frequently absent from school due to illness				
			Diagnosed medical condition				
			Receives prescribed medications regularly for known medical problems				
			Exhibits poor hygiene				
			Exhibits poor toileting skills				
			Exhibits poor nutritional health				
			Wears corrective lenses				
			Wears hearing correction device (Hearing aid)				
			Wears orthopedic device (Leg brace, etc.)				
			Requires orthopedic assistance (cane, walker, wheelchair, etc.)				

(Y)es (N)o (U)nclear/(U)known

Additional Observations/Notes/Comments:

--

INTERVENTIONS

Dates			Administrative		Y	N*	Comments
			Behavioral contract written	Successful?			
			Change in Placement				
			Change teachers/classroom				
			Limited day				
			Home schooling				
			School attendance review board (SARB)				
			Change schools				
			Suspension: Administrative Teacher # of Days				
			Other:				

* (Y)es (N)o

Dates			Regular Education		Y	N*	Comments
			Before/after school activities				
			Language proficiency testing				
			ESL services				
			Curriculum modification				
			Classroom accommodations				
			Behavioral intervention plan (positive)				
			Alternative instructional strategies				
			Alternative educational plan				
			Peer tutors				
			Cross-age tutors				
			Community tutors				
			Counseling				
			Title I services				
			Referral to SST				
			Other:				

* (Y)es (N)o

INTERVENTIONS

Dates			Nurse	Y	N*	Comments
			Developmental history			
			Health history			
			Visual screening			
			Hearing screening			
			Physical needs assessment			
			Medication evaluation			
			Other:			

* (Y)es (N)o
available

Note in comment section if no data

Dates			Parent	Y	N*	Comments
			Positive reinforcements			
			Supervised study time			
			Parent/teacher/(student) conferences			
			Home/school contract			
			Counseling			
			Parenting classes			
			Weekly progress reports			
			Volunteer in Classroom			
			Other:			

* (Y)es (N)o

Dates			Teacher- Behavior	Y	N*	Comments
			Proximity control			
			Teacher/student conference			
			Change seating arrangements			
			Send home positive notes			
			Explain logical consequences of behaviors			
			Develop list of favorite activities as rewards			
			Develop list of student interests as rewards			
			Develop list of desired tasks student can perform as rewards			
			Reward student for positive behavior			
			Written list of rules in student's notebook			
			Offer student more choices			
			Silent signals			
			Use carrel to reduce distractions			
			Develop system for appropriate attention-getting			
			Change of activities			
			Preface activities with specific instructions on expected behaviors			
			Develop daily home contract with specific rewards/consequences for behavior			
			Frequent positive feedback for appropriate behavior			
			Small group instruction			
			Cooperative learning			
			Change groups			
			Refer to counselor			
			Social skills instruction added to curriculum			
			Other:			
			Other:			

* (y)es (n)o

Dates			Teacher - Academic	Y	N*	Comments
			Give extra time to complete tasks			
			Modify task requirements			
			Simplify complex directions			
			Require fewer correct answers to achieve grades			
			Test orally			
			Repetition of conceptual information			
			Directions given multimodally			
			Extended time for assignments			
			Reduce complexity of assignments			
			Shorten instructions			
			Written instructions			
			Pre-teach new vocabularies			
			Increase visual mode of presentation along with auditory			
			Shorten auditory chunks			
			Use of charts and graphs			
			Focus attention before giving directions			
			Make directions simple and brief			
			Restate directions			
			Have student repeat directions			
			Check for understanding			
			Use of manipulatives			
			Use of computers			
			Provide daily work schedule			
			Write homework assignments in notebook			
			Other:			
			Other:			

* (Y)es (N)o

Section IV

STUDENT STUDY TEAM CHECKLIST

STUDENT STUDY TEAM (SST) CHECKLIST

NOTE: This checklist is to be used to make observations ONLY. It is not designed as a tool for making placement determinations.

OBSERVATIONS

Dates			Language	F O N*			Comments
			Understands single step directions				
			Understands multiple step directions				
			Organizes/expresses thoughts easily				
			Participates in class discussions				
			Remembers material presented verbally				
			Grade appropriate vocabulary - written				
			Grade appropriate vocabulary - verbal				
			Grade appropriate listening skills				
			Communicates needs, wants, ideas effectively				
			Speaks another language fluently				YES <input type="checkbox"/> NO <input type="checkbox"/> /

* (F) frequently (O) occasionally (N) never

Language Spoken

Dates			Reading	F O N*			Comments
			Has good word attack skills				
			Recognizes common "sight words"				
			Copies/writes letters, numbers appropriately (does not reverse them)				
			Reads with fluency (not word-by-word)				
			Reads without substitutions, omissions, mispronunciations				
			Matches words, letters, pictures, accurately				
			Works well from crowded paper, page, whiteboard, bulletin board, etc				
			Keeps place on page without assistance				
			Keeps place on page with assistance - finger on word, bookmark under line, etc				
			Easily reads small or unusual type				

* (F) frequently (O) occasionally (N) never

OBSERVATIONS

Dates			Math	F O N*			Comments
			Grade appropriate computation skills				
			Demonstrates grade appropriate knowledge of math facts				
			Demonstrates grade appropriate math skills				
			Understands grade appropriate math concepts				
			Demonstrates grade appropriate math application				
			Relies on alternative strategies to solve math problems - counting on fingers, drawing lines, etc				

* (F)requently (O)ccasionally (N)ever

Dates			Study/Work Skills	F O N*			Comments
			Remains on-task (Define criteria)				
			Follows written directions				
			Follows directions given orally				
			Completes assigned classwork				
			Completes assigned homework				
			Work is organized and neat				
			Stays focused when others are off-task				
			Appears alert and willing to participate in class				

* (F)requently (O)ccasionally (N)ever

OBSERVATIONS

Dates			Behavior - Positive	F O N*			Comments
			Remains seated when instructed to do so				
			Works well without constant supervision				
			Plays with others without constant supervision				
			Plays alone without constant supervision				
			Reacts appropriately to constructive criticism				
			Easily redirected				
			Exhibits positive self-image				
			Makes friends easily				
			Conforms to classroom rules				
			Effectively problem solves during peer interactions				
			Takes turns appropriately				
			Follows the conventions of dialogue (does not interrupt, allows others to speak, sticks to the topic, etc)				
			Asks for permission before standing, walking around classroom, etc.				
			Says, "Please", "Thank You", "Excuse Me", etc. when appropriate				
			Initiates interaction with peers				
			Accepts responsibility for own behavior				
			Assists others without direction when appropriate				

* (F)requently (O)ccasionally (N)ever

Dates			Behavior - Negative	F O N*			Comments
			Uses verbally abusive language with peers				
			Uses verbally abusive language with staff/parents/other adults				
			Uses sexually inappropriate language with peers				
			Uses sexually inappropriate language with staff/parents/other adults				
			Screams/cries when thwarted				
			Verbally threatens peers				
			Verbally threatens staff/parents/other adults				
			Physically threatens peers				
			Physically threatens staff/parents/other adults				
			Hits/Slaps/Pushes/Kicks/Spits on/Throws objects at peers				
			Hits/Slaps/Pushes/Kicks/Spits on/Throws objects at staff/parents/other adults				
			Refuses to follow directions				
			Blames others for mistakes, misconduct				
			Demands one-to-one attention				
			Takes others' possessions without asking				
			Steals others' possessions				
			Damages public/private property				
			Tears papers/ breaks pencils, etc.				
			Refuses to participate in group activities				
			Makes up negative stories about others to get attention				
			Makes up stories about others to draw attention away from own negative behavior				

* (F)requently (O)ccasionally (N)ever

OBSERVATIONS

Dates			Perception (Visual)	Y/N/U*			Comments
			Lacks visual acuity				
			Letters/numbers written unevenly				
			Letters/numbers unevenly spaced				
			Reverses letters/numbers/words				
			Has difficulty "tracking" words/letters/numbers across a printed page				
			May have visual acuity problems (Assessment requested?/Date to be Assessed?)				

* (Y)es (N)o (U)nclear

Dates			Fine Motor Skills	F O N*			Comments
			Legible handwriting				
			Prints letters/numbers using appropriate conventions (top to bottom, left to right rather than from bottom to top)				
			Stays on the line				
			Letters/numbers evenly spaced				
			Letters/numbers uniformly sized				
			Grasps writing instrument appropriately				
			Traces without difficulty				
			Stays between the lines				
			Confuses left and right (Directionality)				
			Writes legibly with appropriate speed				
			Written words are neither too heavy nor too light (pencil does not create holes in paper)				
			Uses scissors to cut along appropriate lines				

* (F)requently (O)ccasionally (N)ever

Dates			Gross Motor Skills	F O N*			Comments
			Locomotion skills (running, walking, balance, etc) are age appropriate				
			Object control skills (throwing/catching/ a ball, etc) are age appropriate				

* (F) frequently (O) occasionally (N) never

Dates			Health	Y/N/U*			Comments
			Frequently absent from school due to illness				
			Diagnosed medical condition				
			Receives prescribed medications regularly for known medical problems				
			Exhibits poor hygiene				
			Exhibits poor toileting skills				
			Exhibits poor nutritional health				
			Wears corrective lenses				
			Wears hearing correction device (Hearing aid)				
			Wears orthopedic device (Leg brace, etc.)				
			Requires orthopedic assistance (cane, walker, wheelchair, etc.)				

(Y)es (N)o (U)nclear/(U)nkown

Additional Observations/Notes/Comments:

--

INTERVENTIONS

Dates			Administrative	Successful?	Y	N*	Comments
			Behavioral contract written				
			Change in Placement				
			Change teachers/classroom				
			Limited day				
			Home schooling				
			School attendance review board (SARB)				
			Change schools				
			Suspension: Administrative Teacher # of Days				
			Other:				

* (X)es (N)o

Dates			Regular Education	Y	N*	Comments
			Before/after school activities			
			Language proficiency testing			
			ESL services			
			Curriculum modification			
			Classroom accommodations			
			Behavioral intervention plan (positive)			
			Alternative instructional strategies			
			Alternative educational plan			
			Peer tutors			
			Cross-age tutors			
			Community tutors			
			Counseling			
			Title I services			
			Referral to SST			
			Other:			

* (X)es (N)o

INTERVENTIONS

Dates			Nurse	Y	N*	Comments
			Developmental history			
			Health history			
			Visual screening			
			Hearing screening			
			Physical needs assessment			
			Medication evaluation			
			Other:			

* (Y)es (N)o
available

Note in comment section if no data

Dates			Parent	Y	N*	Comments
			Positive reinforcements			
			Supervised study time			
			Parent/teacher/(student) conferences			
			Home/school contract			
			Counseling			
			Parenting classes			
			Weekly progress reports			
			Volunteer in Classroom			
			Other:			

* (Y)es (N)o

Dates			Teacher- Behavior	Y	N*	Comments
			Proximity control			
			Teacher/student conference			
			Change seating arrangements			
			Send home positive notes			
			Explain logical consequences of behaviors			
			Develop list of favorite activities as rewards			
			Develop list of student interests as rewards			
			Develop list of desired tasks student can perform as rewards			
			Reward student for positive behavior			
			Written list of rules in student's notebook			
			Offer student more choices			
			Silent signals			
			Use carrel to reduce distractions			
			Develop system for appropriate attention-getting			
			Change of activities			
			Preface activities with specific instructions on expected behaviors			
			Develop daily home contract with specific rewards/consequences for behavior			
			Frequent positive feedback for appropriate behavior			
			Small group instruction			
			Cooperative learning			
			Change groups			
			Refer to counselor			
			Social skills instruction added to curriculum			
			Other:			
			Other:			

* (y)es (n)o

Dates			Teacher - Academic	Y	N*	Comments
			Give extra time to complete tasks			
			Modify task requirements			
			Simplify complex directions			
			Require fewer correct answers to achieve grades			
			Test orally			
			Repetition of conceptual information			
			Directions given multimodally			
			Extended time for assignments			
			Reduce complexity of assignments			
			Shorten instructions			
			Written instructions			
			Pre-teach new vocabularies			
			Increase visual mode of presentation along with auditory			
			Shorten auditory chunks			
			Use of charts and graphs			
			Focus attention before giving directions			
			Make directions simple and brief			
			Restate directions			
			Have student repeat directions			
			Check for understanding			
			Use of manipulatives			
			Use of computers			
			Provide daily work schedule			
			Write homework assignments in notebook			
			Other:			
			Other:			

* (Y)es (N)o

Section V

PRE-ASSESSMENT QUESTIONNAIRE

PRE-ASSESSMENT QUESTIONNAIRE

Student's Name: _____ Date: _____

Rater's Name: _____

Title: _____

Please circle the most correct answer. **REMEMBER, your first thought is probably the right one!!**

(F)requently (O)ften (N)ever

F O N Student appears bright

F O N Student does some things well and some poorly

F O N Student is successful in class

AD

F O N Student listens in class

F O N Student remembers what has been said

F O N Student follows directions

F O N Student has good sense of rhythm

F O N Student can discriminate between similar sounds

F O N Student pronounces words clearly

F O N Student speaks clearly

F O N Student uses high level, age appropriate vocabulary

F O N Student easily sounds out words (understands phonics)

F O N Reading errors are similar in meaning puppy = dog

F O N Spelling words resemble correct words in appearance (fone = phone)

F O N Student remembers what he/she sees

VD

F O N Student does **not** reverse letters when reading or writing

F O N Student reads at age appropriate rate with proper inflection

F O N Student reads sight words without difficulty

F O N Student does **not** replace words with visually similar words (horse = house)

F O N Student does **not** lose place or omit words when reading

F O N Student does **not** "guess" at words but sounds them out easily

F O N Student does **not** have difficulty copying from the board

F O N Student can remember what he/she has seen: pictures, scenes

F O N Student has superior memory for what he/she has heard

OLD

F O N Student speaks in complete sentences

F O N Student has an immature (below age appropriate) vocabulary

F O N Student easily finds words to express thoughts

F O N Student enjoys participating in class discussions

F O N Student has age appropriate reading comprehension

F O N Student uses correct verb tenses

F O N Student demonstrates command of subject-verb agreement

F O N Student does **not** usually mispronounce words

F O N Student's sentences are seldom mixed up

F O N Student does **not** use gestures in place of age appropriate vocabulary

WxLD

F O N Student exhibits appropriate writing posture

F O N Student's written work is neat
F O N Sequence of movements in forming letters is appropriate
F O N Student does **not** reverse letters when writing (3rd grade and above)
F O N Written letters are uniform and written on the appropriate line
F O N Student does **not** have difficulty copying from the board
F O N Student does **not** exhibit difficulty completing written work
F O N Student expresses ideas in clear, logical, intelligible manner

MotorCo

F O N Student exhibits age appropriate skill in sports
F O N Student exhibits age appropriate gait when walking, running
F O N Student exhibits age appropriate balance, coordination
F O N Student exhibits age appropriate eye-hand coordination (cutting, writing, etc.)

Orientation

F O N Student exhibits age appropriate ability to tell time
F O N Student exhibits age appropriate ability to judge time spans (early/late, birthday)
F O N Student performs adequately on timed tests/assignments
F O N Student exhibits ability to plan ahead
F O N Student does **not** get lost in what should be familiar territory
F O N Student understands directionality (north/south, left/right, etc.)
F O N Student exhibits age appropriate ability to make comparisons (size, distance, etc.)

ADH

F O N Student thinks before acting (does **not** act impulsively)
F O N Student exhibits age appropriate ability to sit still
F O N Student exhibits consistent (rather than unpredictable) behavior

Addisinhbition

F O N Student appears to pay attention
F O N Student attends to classwork/presented lessons (does **not** appear to daydream)
F O N Student's comments in discussions/conversations are related to topic
F O N Student waits to start assignments until directions have been given

Addistractibility

F O N Student does **not** appear easily distracted by sights/sounds in environment
F O N Student exhibits the ability to discriminate what is important and what is not

Adperseveration

F O N Student does **not** obsessively persist in activity/topic/thought

Adorganization

F O N Student is prepared for class
F O N Student knows where assignments/personal items are (does **not** lose things)
F O N Student keeps desk, personal space, lockers, etc neat and tidy
F O N Student work is organized
F O N Student is on time and remembers tasks/personal items (is **not** late/forgetful)

Other

F O N Student follows school/classroom rules
F O N Student asks for help appropriately
F O N Student exhibits effort made in work attempted/completed
F O N Student asks for help outside regular class hours when needed
F O N Student appears motivated
F O N Student appears to care about others

F O N Student appears to care about school
F O N Student appears to care about self
F O N Student displays acts of caring and kindness towards others
F O N Student displays care in personal hygiene/grooming/dress

Section VI

RESOURCE SPECIALIST'S PROGRAM QUESTIONNAIRE

RESOURCE SPECIALIST'S PROGRAM QUESTIONNAIRE

Student Name: _____

Date Needed: _____

Rater's Name: _____

Date Rated: _____

Please assess this student in the following areas. Remember to note both strengths and weaknesses in both daily academic performance and overall behavior. Also, please include/list the assessment tool/protocol/device used. (Examples: student work sample, observation, text-generated test, teacher-generated test, etc.).

Reading: reading level, fluency, word attack skills, comprehension, etc.

Written Expression: spelling, punctuation & capitalization, grammar, clarity, age appropriate vocabulary and complexity, etc.

Math : Vocabulary, concepts, computation, application, etc.

Communication: Oral communication age appropriate – tone, fluency, clearly understood Listening skills

--

Fine/Gross Motor Skills: FINE: handwriting/grip GROSS: balance/agility/coordination

--

Social/Emotional: Relationships/Attitude toward Teacher/Peers/Self, etc.

Behavior: In-class/on the playground with Teacher/Peers/Self, etc.

--

Specific Issues to Address: Note specific needs in the following areas. How often?

	Y/N	Example(s)	Frequency
Organization			
Academic Independence			
Homework			
Classwork			
School Skills			

Learning Styles/Strengths/Preferences:

--

Health Issues:

--

Attendance: (Absences/Tardies Reasons:

--

Other Potential Areas of Concern/Comments:

Section VII

SPECIAL EDUCATION SERVICES CHECKLIST

Special Education Services Checklist

Date	Name	ELD Phase	IEP Type	Student Birthday	Home Lang Survey Date	IEP Date	Parent Invite	Staff Invite	Health Request Absences	Phone #	S E P	Checklist Teacher OK

Section VIII

SPECIAL EDUCATION TIMELINES

SPECIAL EDUCATION TIMELINES

ACTION	MANDATED RESPONSE	TIMELINE
Parent request for Assessment	Assessment plan developed with parent ⇒ Parent presented with Notice of Consideration for Special Education and a Statement of Parents' Rights and Procedural Safeguards	Within 15 days of referral
Student Study Team referral for Assessment	Assessment plan developed with parent ⇒ parent presented with Notice of Consideration for Special Education and a Statement of Parents' Rights and Procedural Safeguards	Within 15 days of referral
Parent presented with Assessment Plan	Parent given time to CONSIDER allowing for Assessment	At least 15 days
Signed Assessment Plan received	Assessment implemented ⇒ IEP Meeting convened	Within 50 days
IEP Meeting planned	Parent sent Notice of Meeting	10 days prior to meeting
Student enrolls in new school with existing IEP	Interim placement ⇒ IEP team held	Within 30 days
Parent request for IEP team meeting	Schedule IEP team meeting	Within 30 days
IEP Review (Annual)	IEP team meeting scheduled	Within 364 days of last IEP
Reevaluation (Triennial)	Assessment for continued eligibility – Academic and Psychoeducational	On or before the date of the 3rd anniversary of the initial IEP or the last triennial
Parent request to review record	Review records with parents	Within 5 days

Section IX

INDIVIDUALIZED EDUCATION PLAN (IEP) MEETING OUTLINE

INDIVIDUALIZED EDUCATION PLAN MEETING OUTLINE

INTRODUCTION

1. Each person introduce himself/herself (including parents)

PURPOSE OF IEP

1. State purpose of IEP team meeting: Initial, Annual Review, Triennial Review, 30-Day, Review of Assessment Results, Parental Request, etc.
2. Establish time parameters

PARENT RIGHTS – Give and state Parental Rights /Note it in Comments Section

“You are considered equal partners and have the right to:

1. Participate in all meetings involving the evaluation of your child
2. Examine all records relating to the special education process
3. Be notified of your rights so you can participate and make decisions regarding your child
4. Seek outside independent evaluation if you disagree with our findings
5. Receive written notification of any possible change of placement which effects or alters the IEP
6. Be given the opportunity to object to any placement
7. Dispute any decisions you believe may violate FAPE (free appropriate public education)
8. Have all written notifications in your native language in clear, understandable terms
9. Have both custodial and non-custodial parent notified and present if joint custody has been given. (It is the custodial parent's responsibility to inform the team of custodial matters).

(State that the Rights have been mailed with the invitation, with the assessment, and are being given now at the IEP. Verify that addresses of all participants are correct and current)

PRESENT LEVELS (Assessment Results)

This is where your child is operating right now

REVIEW GOALS

1. Met – Move to next logical step
2. Partially met – revise and rewrite
3. Not met – change

DISCUSS PRESENT GOALS AND BENCHMARKS

DISCUSS PLACEMENT IN *LRE* WHERE GOALS CAN BE MET

TRANSPORTATION

EXTENDED SCHOOL YEAR

STATE ASSESSMENTS

LOW INCIDENCE DISABILITIES

ASSISTIVE DEVICES – must fit goal, does not go home

COMMENTS/SUMMARY – review decisions

REVIEW - clarify next scheduled review

SIGNATURES

Section X

INDIVIDUALIZED EDUCATION PLAN PAGE-BY-PAGE CHECKLIST

IEP PAGE-BY-PAGE CHECKLIST

Student Information

Timeline Information	Purpose of Meeting	Student Information	Student Language Information
English Levels	Language of Instruction	Eligibility (Primary Disability only)	Services Considered
Program/Designated Instructional Services			
Program	Agency	Service Delivery Model, including location :Public/Non-Public To/From (Month/Year)	
Frequency Time (Total Special Education minutes per week divided by TOTAL general education minutes per week = percentage of time in special education)			

Present Levels Of Performance: What the student is able to do

Reading – letter-word identification, passage comprehension, fluency, rate, intonation, reading level, etc

Written expression – clarity of intended meaning, grammar, punctuation, spelling, application of writing process, reference materials use, etc

Math – number sense, computation & operations, algebra & functions, measurement, geometry, data analysis, reasoning, problem solving, etc

Communication – Fluency level, receptive/expressive language, listening and attending skills, tone of voice.

Speech/language findings presented here, if testing by Speech Language Pathologist is completed

Fine/Gross Motor – Small muscle group (ie, writing, buttoning, tying), large muscle group (coordination, balance, team sports, agility)

Social/Emotional – Peer interactions, adult interactions, self-esteem, problem-solving, frustration tolerance, emotional health

Behavior – Observable, quantifiable behaviors related to class/school/playground rules. (If there is identifiable, observable behavior that needs remediation a behavioral goal must be written in the IEP and addressed by appropriate team member)

Regular discipline policy applies – determine if it will apply to the student

Behavior Intervention Plan – determine if it will apply to the student

Vision/Hearing/Health Box – screening dates, medications taken, physical limitations, attendance patterns included

Daily Living Skills – Independent, functional living skills noted (Additional needs – toileting, feeding, dressing, if applicable), hygiene

Career/Vocational – Elementary – school as job (homework, classwork, organizational skills, time on task, task completion, attention, independent work habits)

Secondary – career interests, training, involvement in work experience, etc

Community Participation – Ability to participate in the community with /without supervision, includes participation in organized community activities like sports, religious activities, scouts, group activities, neighborhood interactions:
Information from parent or student

Learning Strengths/Preferences – auditory, visual, kinesthetic (manipulatives), multimodal, etc

Parent Priorities – Parent perceptions of educational needs, expectations for the student into the future 3-5 years

Impact of Disability – Explain how the disability effects learning (requires more opportunity for practice/repetition, needs small group instruction to address needs that can not be addressed in general ed classes even with accommodations, interferes with ability to perform at or close to grade level, etc. (Specify disability and how it interferes with progress in general education environment)

Goals and Objectives/Benchmarks Pages

Assess success of prior goals – **Met** – create new goal based on next logical step

Partially Met – assess goals, revise and rewrite

Not Met – Create realistic goals based on current levels of performance

(Do NOT forget to write in the month, date, and year of the previous IEP meeting where the goals were established)

Statement of Need – clearly state the areas that the IEP goals will address based on the next step after the present levels of performance

Person(s) Responsible – Identify which individuals are responsible for addressing the goals – special educator, school psych, speech therapist, etc

Annual Goals and Objectives/Benchmarks – Clearly state what the student can reasonably expect to achieve within a twelve-month period. Benchmarks must be written in equal incremental steps. Must state what you want the student to learn. Steps indicate how student will get to that goal. (i.e., Student will achieve (State Goal here) with (State percentage of accuracy; or may be stated X out of Y times) as measured by (State how competency will be measured) by (State date of benchmark)

Transition Plan Pages (for students 14 and older)

Write in Anticipated Graduation Date

Statement of Needed Transition Services (First 4 required for ALL Transition Plans)

1. Instruction: Vocational courses, Community College, Preparing Resume, Computer Training, etc.
2. Community Experiences: Recreational Activities, Driver's License/Driver's Training, etc.
3. Employment/Post-School Living Objectives: Continuing education – college, vocational school, employment – work experience/on-the-job-training
4. DIS/Related Services – Existing DIS services such as Speech/Language, Counseling, etc.
5. Daily Living Skills – For those students who are in need of basic living skills training – hygiene, grooming, meal preparation, transportation skills, etc

6. Functional Vocational Assessment – Vocational/career goals, desires, strengths, aptitudes – tend to be situational/observational assessments, though formal measures may be used
7. Interagency Responsibilities/Linkages – Coordination among agencies needed to provide/coordinate services

Activities

Describe specific actions necessary to address Needed Transition Services

If it is determined for any of the FIRST FOUR areas of the Transition Plan pages that activities are NOT necessary an explanation as to WHY they are not needed is required

Agency/Person Responsible

Identify any persons or agencies responsible for the activities cited – may be the student, a counselor, the parents, governmental agencies, private/public colleges/vocational schools, etc.

Timeline - Date by when the Transition services should be completed

Date Completed – Note date when the Transition Services Needs have been met

Supports and Services

Modifications/Transitions to General Education Setting

Program modification to support progress in general education **OR** Activities to provide support for transition into general education

Examples of modifications may be having assignments read to the student, shortening written assignments or using oral quizzes as assessments. Use of additional instructional assistance, modification of classroom environment, change of classroom management techniques, modification of materials and assignments, home-school cooperation

Examples of support to transition into general education include providing the student with the opportunity to participate in playground activities, lunch, assemblies, general education physical education, etc

Assessment

Determine whether student will participate in state/district assessments without modifications or accommodations **OR** State the modifications or accommodations that the student will be provided **OR** Explain and justify why the student will participate in alternative assessment and what that assessment will be. Review guidelines for accommodations/modifications

High School Proficiency Standards

Note the date student met proficiency standards, if applicable

Define/describe proficiency modification or differential standards, if applicable

Note the High School Credits currently completed by student, if applicable

Special Factors

Information related to Low Incidence Disabilities – Blind/Visually Impaired, Deaf/Hearing Impaired, Materials Need,
Any Assistive Technology Devices/Services
Describe the devices, services that are to be made available to the student

Physical Education

Note whether the student will participate in general education PE, Adaptive PE or a modified/specially designed PE program

Methods of Reporting Progress Toward Goals

Note how the progress will be noted – quarter, semester, trimester, etc and by what means (progress report/report card, etc.

Comments/Summary

Space for any additional comments clarifying services

Program Options and Rationale

Options Considered: Check all options considered during the IEP AND what options were decided by the team

Other Programs and/or Services Considered/Discussed: Examples: 1:1 aide, counseling, before or after school programs,
services at local Regional Center, etc.

Reasons For Decision: Specific reasons – i.e., needs small group instruction, etc.

Tests, Evaluation, & Information Relied Upon: Assessment tools (Standards, Curriculum-based), Psych Tests, Speech/Language, etc

Other Relevant Factors: Medical considerations, family history that might impact learning, etc

Justification: Clearly explain WHY the team has determined that the student will not be successful in general education environment
and what needs will be satisfied by placing the student in an environment outside the general education environment

Specific Learning Disability Discrepancy Rationale: Check factors which describe the discrepancy that has determined the exists
between ability and achievement – Attention, Visual/Auditory Processing, Sensory-Motor Skills, Cognitive Abilities. Justify that it is
not the result of visual, hearing, motor impairment, mental retardation, environment, cultural, economic conditions, etc

Signature Page

1. Make note of attempts to contact parents and by what methods on what dates
2. Signatures of all participants in the meeting and their relationship to the student
3. Informed Consent – Parent/Adult student to initial all applicable statements regarding the following:
 - Advised regarding and given a copy of Procedural Safeguards
 - Consent to IEP as it stands -
 - Consent to IEP with noted exceptions.

- Refusal to consent to IEP – and the stated reasons why
Request for a copy of IEP in primary language
Acknowledgement that IEP has been interpreted orally in primary language (if applicable)
4. Signature(s) of Parent(s), Adult Student, Surrogate, Guardian, etc

Recommendations

At the beginning of the IEP team meeting hand parents the Procedural Safeguards and explain their rights. Have them initial that they have received the Procedural Safeguards and sign that they are present at the meeting. This will safeguard YOU if the parents choose to leave the meeting BEFORE the meeting has been completed.

REFERENCES

- Assistance to the States for the Education of Children with Disabilities, Preschool Grants for Children with Disabilities, 34 C.F.R. § 300.550, 1997.
- A. W. ex rel. N. W. v. Northwest R-1 School District, 813 F.2d 158 (8th Cir. 1987), *cert. Denied*, 484 U.S. 847 (1987)
- Barnett, D. W., et al. (1999). Evaluating early intervention: Accountability methods for service delivery innovations. The journal of special education, 33 (3), 177-188.
- Bartlett, L. (2000). Medical services: The disputed related service. The journal of special education, 33 (4), 215-223, 247.
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